

Finance and Accounting
910 Peel Street, P.O. Box 6042, Station "A"
Montreal, Quebec H3C 3E4
Tel. (514) 395-6681, Telex 05-24725

Canadian Pacific

T Clough
ce-President

MONTREAL, March 4, 1983

Ms. Agatha L. Margenovich
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Ms. Mergenovich:

Enclosed are the original and one counterpart of the document described below to be recorded pursuant to Section 11303 of Title 49 U.S. Code..

This document is an Equipment Trust Agreement, a primary document, dated as of November 1, 1982.

The names and addresses of the parties to the documents are as follows:

Trustee, Conditional Vendor:

Bank of Montreal Trust Company
Two Wall Street
New York, New York 10005
Attention: Keven O. Healey

Conditional Vendee, Guarantor:

Canadian Pacific Limited
910 Peel Street
P.O. Box 6042, Station A
Montreal, Canada H3C 3E4
Attention: Vice-President Finance
and Accounting

The Equipment Trust Agreement does not convey any equipment to the Trustee, all such equipment will be conveyed by supplemental agreement.

A check in the amount of \$50 is enclosed to cover the filing fee.

RECORDATION NO. 13980

MAR 7 1983 - 11 50 AM

INTERSTATE COMMERCE COMMISSION

3-CCSAC080

No. MAR 7 1983

Date.....

Fee \$50.00

ICC Washington, D. C.

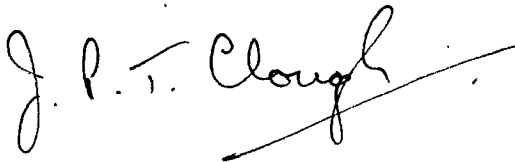
RECEIVED
MAR 7 11 25 AM '83
FEE OPERATION BR.

Please return one counterpart of the agreement bearing the Commission's recordation data to the person delivering this letter.

A short summary of the document to appear in the index follows:

Equipment Trust Agreement between Canadian Pacific Limited, 910 Peel Street, P.O. Box 6042, Station A, Montreal, Canada H3C 3E4 and Bank of Montreal Trust Company, Two Wall Street, New York, New York 10005, Trustee, providing for the issuance of equipment trust certificates in series.

Yours very truly,

A handwritten signature in cursive script, reading "J. P. Clough". The signature is written in dark ink and is positioned above the typed name and title.

Vice-President
Finance and Accounting

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

March 7, 1983

J.P.T. Clough
Vice-President
Finance & Accounting
Canadian Pacific Limited
910 Peel Street
P. O. Box 6042-Station A
Montreal, Canada H3C 3E4

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/7/83 at 11:30AM , and assigned re-
recording number(s). 13980, & 13980-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

no #s

RECORDATION NO. **13980** FILE 142

MAR 7 - 1983 - 11 50 AM

INTERSTATE COMMERCE COMMISSION

CANADIAN PACIFIC LIMITED

EQUIPMENT TRUST

EQUIPMENT TRUST AGREEMENT

Dated as of November 1, 1982

Between

**BANK OF MONTREAL TRUST COMPANY,
Trustee**

and

CANADIAN PACIFIC LIMITED

RECEIVED
MAR 7 11 50 AM '83
FEE COLLECTION BR.

EQUIPMENT TRUST AGREEMENT

Dated as of November 1, 1982

Between

**BANK OF MONTREAL TRUST COMPANY,
Trustee**

and

CANADIAN PACIFIC LIMITED

CROSS REFERENCE SHEET

Reconciliation and Tie as to Location in the Equipment Trust Agreement of Provisions Inserted Pursuant to Sections 310 through 318(a) Inclusive of the Trust Indenture Act of 1939.

<u>Section of Trust Indenture Act</u>	<u>Section of Equipment Trust Agreement</u>
310(a)(1)	9.08
(a)(2)	9.08
(a)(3)	9.14
(a)(4)	Not Applicable
(b)	9.07 and 9.09
311(a)	9.12(a) and 9.12(c)
(b)	9.12(b) and 9.12(c)
312(a)*	8.01 and 8.02(a)
(b)	8.02(b)
(c)	8.02(c)
313(a)	8.04(a)
(b)	8.04(b)
(c)	8.04(c)
(d)	8.04(d)
314(a)(1)	8.03
(a)(2)	8.03
(a)(3)	8.03
(b)	7.03
(c)(1)	13.03
(c)(2)	13.03
(c)(3)	Not Applicable
(d)(1)	5.06
(d)(2)	Not Applicable
(d)(3)	4.03, 5.06 and 5.08
(e)	13.03

*Since under an equipment trust agreement only the Trustee may appoint paying agents, the references in Section 312(a) of the Act to paying agents of the obligor have been omitted.

<u>Section of Trust Indenture Act</u>	<u>Section of Equipment Trust Agreement</u>
315(a)	9.02
(b)	6.07
(c)	9.02
(d)	9.02 and 10.03
(e)	6.11
316(a)(1)(A)	6.10 and 10.03
(a)(1)(B)	6.04 and 10.03
(a)(2)	Omitted
(b)	6.09
317(a)	6.01
(b)	9.13
318(a)	13.04

NOTE: This Cross Reference Sheet shall not, for any purpose, be deemed to be a part of the Equipment Trust Agreement.

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EQUIPMENT TRUST AGREEMENT dated as of November 1, 1982 between BANK OF MONTREAL TRUST COMPANY, a corporation duly organized and existing under the laws of the State of New York, as Trustee (hereinafter called the Trustee), and CANADIAN PACIFIC LIMITED, a corporation duly organized and existing under the laws of Canada (hereinafter called the Company).

WHEREAS, the Company has agreed to cause to be sold, transferred and delivered from time to time to the Trustee railroad equipment to be described herein or in supplemental agreements hereto;

WHEREAS, such railroad equipment will be resold, retransferred and redelivered by the Trustee to the Company, with the Trustee retaining title to and a security interest in such railroad equipment until payment by the Company of the related amounts due hereunder, all as more particularly hereinafter described;

WHEREAS, Canadian Pacific Limited Equipment Trust Certificates (hereinafter called the Trust Certificates) are to be issued and sold, in one or more series, in such aggregate principal amount or amounts as may from time to time be authorized in accordance with the terms of this Agreement, and the net proceeds of each such sale, together with such other cash, if any, as may be required to be deposited by the Company as hereinafter provided, are to constitute a fund equal to the aggregate principal amount of the Trust Certificates of each series so issued and sold, to be applied by the Trustee from time to time in part payment of the Cost of the Trust Equipment to be held in trust for the benefit of the holders of the Trust Certificates of such series, the remainder of such Cost to be paid, as hereinafter provided herein, to the manufacturer or owner thereof directly by the Company;

WHEREAS, the texts of the Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company are to be substantially in the following forms, respectively:

[FORM OF SERIAL TRUST CERTIFICATE]

No. _____ \$ _____ U.S.

CANADIAN PACIFIC LIMITED

% SERIAL EQUIPMENT TRUST CERTIFICATE, SERIES
Due

Total Authorized Issue \$ _____ U.S.

BANK OF MONTREAL TRUST COMPANY,
Trustee

BANK OF MONTREAL TRUST COMPANY, a New York corporation, as Trustee (hereinafter called the Trustee) under the Equipment Trust Agreement dated as of November 1, 1982, as such Agreement shall have been amended or supplemented to the date hereof (hereinafter called the Agreement), between the Trustee and CANADIAN PACIFIC LIMITED, a Canadian corporation (hereinafter called the Company), hereby certifies that _____, or registered assigns, is entitled to an interest of _____ U.S. Dollars in Canadian Pacific Limited Equipment Trust, Series _____, payable upon surrender of this Certificate to the Trustee at the principal corporate trust office of the Trustee in the City of New York, New York, and to interest thereon from the date hereof until the principal amount represented by this Certificate shall have become due, payable on _____ and _____ in each year, beginning _____, at the rate of _____ % per annum, with interest on any overdue principal (and premium, if any) and interest, to the extent legally enforceable, at the rate of _____ % per annum; provided that, so long as there is no existing default in the payment of interest and except for the payment of defaulted interest, the interest payable on any _____ or _____ will be paid to the person in whose name this Certificate is registered upon the registry books of the Trustee at the close of business on the record date (the last business day which is more than 15 calendar days prior to such _____ or _____). Principal (and premium, if any) and interest shall be payable to the registered holder hereof at said office of the Trustee in such coin or currency of the United States of America as, at the time of payment, shall be legal

tender for the payment of public and private debts, but only from and out of moneys received by the Trustee and applicable to such payment under the provisions of the Agreement. At the option of the Trustee, payment of interest may be made by check mailed to the address of the person entitled thereto as such address shall appear upon the registry books of the Trustee.

This Certificate is one of an authorized issue of Trust Certificates, Series _____ (hereinafter called the Trust Certificates) in aggregate principal amount not exceeding \$ _____ U.S. consisting of not to exceed \$ _____ U.S. aggregate principal amount which will mature serially in the principal amount of \$ _____ U.S. on _____ of each of the years _____ to _____, both inclusive, and not to exceed \$ _____

U.S. aggregate principal amount which will mature on _____ (unless theretofore called for redemption), all issued or to be issued under the Agreement, under which title to and a security interest in certain railroad equipment conditionally sold to the Company (or cash or obligations defined in the Agreement as "Investment Securities" in lieu thereof, as provided in the Agreement) are held by the Trustee in trust for the equal and ratable benefit of the registered holders of the Trust Certificates.* The Trust Certificates of different maturities may bear different interest rates. Reference is made to the Agreement (a copy of which is on file with the Trustee at its said office) for a more complete statement of the terms and provisions thereof, to all of which the registered holder hereof, by accepting this Certificate, assents.

[Insert any Optional Redemption Provisions]

The Trust Certificates are issuable only as fully registered Trust Certificates in denominations of \$1,000 U.S. and any multiple thereof. The several denominations of the Trust Certificates of the same maturity and interest rate are interchangeable upon presentation thereof for such purpose at said office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Agreement.

* *This sentence shall be appropriately modified in the case of any series of Trust Certificates which shall not include Sinking Fund Trust Certificates or if the Serial Trust Certificates of such series shall mature serially in different principal amounts or shall have a single maturity date.*

This Certificate is transferable by the registered holder hereof in person or by duly authorized attorney on the books of the Trustee upon surrender of this Certificate to the Trustee at its said office, accompanied by a written instrument of transfer duly executed by such registered holder in person or by such attorney in form satisfactory to the Trustee, and thereupon a new Trust Certificate or Certificates in authorized denominations for the same aggregate principal amount, having the same maturity date and bearing the same interest rate, will be issued to the transferee in exchange herefor. The Trustee and the Company may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal (and premium, if any) and interest and for all other purposes and shall not be affected by any notice to the contrary.

In case of the happening of an Event of Default (as defined in the Agreement), the principal amount represented by this Certificate may become or be declared due and payable in the manner and with the effect provided in the Agreement.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by the manual or facsimile signature of one of its Vice Presidents and its corporate seal or a facsimile thereof to be hereunto affixed or imprinted and to be attested by the manual signature of one of its Authorized Officers.

Dated as of

BANK OF MONTREAL TRUST COMPANY,
Trustee

By _____
Vice President

[CORPORATE SEAL]

Attest:

Authorized Officer

[FORM OF SINKING FUND TRUST CERTIFICATE]

No. _____ \$ _____ U.S.

CANADIAN PACIFIC LIMITED

% SINKING FUND EQUIPMENT TRUST CERTIFICATE, SERIES
Due

Total Authorized Issue \$ _____ U.S.

BANK OF MONTREAL TRUST COMPANY,
Trustee

BANK OF MONTREAL TRUST COMPANY, a New York corporation, as Trustee (hereinafter called the Trustee) under the Equipment Trust Agreement dated as of November 1, 1982, as such Agreement shall have been amended or supplemented to the date hereof (hereinafter called the Agreement), between the Trustee and CANADIAN PACIFIC LIMITED, a Canadian corporation (hereinafter called the Company), hereby certifies that _____, or registered assigns, is entitled to an interest of _____ U.S. Dollars in Canadian Pacific Limited Equipment Trust, Series _____, payable upon surrender of this Certificate to the Trustee at the principal corporate trust office of the Trustee in the City of New York, New York, and to interest thereon from the date hereof until the principal amount represented by this Certificate shall have become due, payable on _____ and _____ in each year, beginning _____, at the rate of _____ % per annum, with interest on any overdue principal (and premium, if any) and interest, to the extent legally enforceable, at the rate of _____ % per annum; provided that, so long as there is no existing default in the payment of interest and except for the payment of defaulted interest, the interest payable on any _____ or _____ will be paid to the person in whose name this Certificate is registered upon the registry books of the Trustee at the close of business on the record date (the last business day which is more than 15 calendar days prior to such _____ or _____). Principal (and premium, if any) and interest shall be payable to the registered holder hereof at said office of the Trustee in such coin or currency of

the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts, but only from and out of moneys received by the Trustee and applicable to such payment under the provisions of the Agreement. At the option of the Trustee, payment of interest may be made by check mailed to the address of the person entitled thereto as such address shall appear upon the registry books of the Trustee.

This Certificate is one of an authorized issue of Trust Certificates, Series _____ (hereinafter called the Trust Certificates) in aggregate principal amount not exceeding \$ _____ U.S. consisting of not to exceed \$ _____ U.S. aggregate principal amount which will mature serially in the principal amount of \$ _____ U.S. on _____ of each of the years _____ to _____, both inclusive, and not to exceed \$ _____

U.S. aggregate principal amount which will mature on _____ (unless theretofore called for redemption), all issued or to be issued under the Agreement, under which title to and a security interest in certain railroad equipment conditionally sold to the Company (or cash or obligations defined in the Agreement as "Investment Securities" in lieu thereof, as provided in the Agreement) are held by the Trustee in trust for the equal and ratable benefit of the registered holders of the Trust Certificates.* The Trust Certificates of different maturities may bear different interest rates. Reference is made to the Agreement (a copy of which is on file with the Trustee at its said office) for a more complete statement of the terms and provisions thereof, to all of which the registered holder hereof, by accepting this Certificate, assents.

[Insert any Sinking Fund and Optional Redemption Provisions]

The Trust Certificates are issuable only as fully registered Trust Certificates in denominations of \$1,000 U.S. and any multiple thereof. The several denominations of the Trust Certificates of the same maturity and interest rate are interchangeable upon presentation thereof for such purpose at said office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Agreement.

* *This sentence shall be appropriately modified in the case of any series of Trust Certificates which shall not include Serial Trust Certificates or if the Serial Trust Certificates of such series shall mature serially in different principal amounts or shall have a single maturity date.*

This Certificate is transferable by the registered holder hereof in person or by duly authorized attorney on the books of the Trustee upon surrender of this Certificate to the Trustee at its said office, accompanied by a written instrument of transfer duly executed by such registered holder in person or by such attorney in form satisfactory to the Trustee, and thereupon a new Trust Certificate or Certificates in authorized denominations for the same aggregate principal amount, having the same maturity date and bearing the same interest rate, will be issued to the transferee in exchange herefor. The Trustee and the Company may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal (and premium, if any) and interest and for all other purposes and shall not be affected by any notice to the contrary.

In case of the happening of an Event of Default (as defined in the Agreement), the principal amount represented by this Certificate may become or be declared due and payable in the manner and with the effect provided in the Agreement.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by the manual or facsimile signature of one of its Vice Presidents and its corporate seal or a facsimile thereof to be hereunto affixed or imprinted and to be attested by the manual signature of one of its Authorized Officers.

Dated as of

BANK OF MONTREAL TRUST COMPANY,
Trustee

By _____
Vice President

[CORPORATE SEAL]

Attest:

Authorized Officer

1.01

[FORM OF GUARANTY FOR TRUST CERTIFICATES]

Canadian Pacific Limited, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment of the principal of (and premium, if any, on) said Certificate and of the interest thereon specified in said Certificate, with interest on any overdue principal (and premium, if any) and interest, to the extent legally enforceable, at the rate of % per annum, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

CANADIAN PACIFIC LIMITED

By _____
Vice-President

WHEREAS, it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof at maturity, whether by declaration or otherwise, with interest to said date of maturity, and any premium to which such holders shall become entitled, all as hereinafter provided, and to evidence the rights of such holders;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto hereby agree as follows:

ARTICLE ONE

DEFINITIONS

SECTION 1.01. *Definitions.* The following terms (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement shall have the respective meanings hereinafter specified; all other terms used in this Agreement which are defined in the Trust Indenture Act of 1939 or which are by reference therein defined in the Securities Act of 1933 (except as herein otherwise expressly provided or unless the context otherwise requires) shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date this Agreement is originally executed:

Affiliate of any corporation shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under direct or indirect common control with, such corporation. For the purposes of this definition, *control* (including *controlled by* and *under common control with*), as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities, by contract or otherwise.

Agreement shall mean this instrument as originally executed and delivered or, if amended or supplemented as provided herein, as so amended or supplemented and shall include the forms and terms of each series of the Trust Certificates established and issued hereunder.

Bankruptcy Act shall mean Title 11 of the United States Code as in force at the date this Agreement is originally executed or as thereafter amended.

Board of Directors shall mean the Board of Directors of the Company or a committee of directors lawfully exercising the relevant powers of the Board of Directors.

Business Day shall mean each day which is not a Saturday, Sunday or other day on which banking institutions in the City of New York, New York are authorized by law to remain closed.

Commission shall mean the United States Securities and Exchange Commission.

Company shall mean Canadian Pacific Limited and any successor or successors to it complying with the provisions of Section 5.09.

Corporate Trust Office shall mean the principal office of the Trustee in the City of New York, New York at which its corporate trust business shall, at the time in question, be administered, which office at the date of execution of this Agreement is located at Two Wall Street, New York, New York 10005.

Cost, when used with respect to Equipment, shall mean the actual cost thereof to the Company and shall include only such items as may properly be included in such cost in the property account of the

1.01

Company under the accounting rules of the governmental authority having jurisdiction over the accounts of the Company or, to the extent not determined thereby, under sound accounting practice. Cost shall be determined in U. S. dollars converted, if necessary, from Canadian dollars at the rate prevailing at the time any unit of Equipment shall be sold, assigned and transferred to the Trustee.

Deposited Cash shall mean the aggregate of (i) the cash (excluding accrued interest, if any) and any amounts on deposit with the Trustee as provided in the first paragraph of Section 2.01 and, when required or indicated by the context, any Investment Securities purchased with such cash pursuant to the provisions of Section 9.05 and (ii) any sums restored to Deposited Cash from amounts paid by the Company pursuant to subparagraph (2)(A)(ii) of the first paragraph of Section 5.04 and on deposit with the Trustee.

Deposited Cash Percentage, when used with respect to the Trust Certificates of any series, shall mean the percentage of the Depreciated Cost of the Equipment to be sold, assigned and transferred to the Trustee to be held in trust for the benefit of the holders of the Trust Certificates of such series which is to be paid out of Deposited Cash pursuant to Section 4.02, as specified pursuant to subparagraph 9(i) of the first paragraph of Section 2.03(b) in the supplemental agreement hereto or the resolution creating such series.

Depreciated Cost, when used with respect to the Equipment to be sold, assigned and transferred to the Trustee to be held in trust for the benefit of the holders of the Trust Certificates of any series, shall mean the Cost of such Equipment less, for each full year elapsed between the date specified pursuant to subparagraph 8(ii) of the first paragraph of Section 2.03(b) in the supplemental agreement hereto or the resolution creating such series and the date on which such Equipment is delivered to the Trustee pursuant to Section 4.01 or the last paragraph of Section 4.03, the fraction of such Cost specified pursuant to such subparagraph 8(ii).

Depreciated Cost Percentage, when used with respect to the Trust Certificates of any series, shall mean the percentage obtained by dividing 100% by the Deposited Cash Percentage for such series.

Engineer's Certificate shall mean a certificate signed by a person appointed by the Company who shall be an engineer, appraiser or other expert, as the case may require. Such engineer, appraiser or other expert may be an officer or employee of the Company except where this Agreement specifically requires the signature of an Independent Engineer.

Equipment, when used with respect to the Trust Certificates of any series, shall mean standard-gauge railroad equipment (other than passenger or work equipment) which shall first have been put into use on or after the date specified pursuant to subparagraph 8(i) of the first paragraph of Section 2.03(b) in the supplemental agreement hereto or the resolution creating such series, except that, for the purposes of Sections 5.06 and 5.08, if railroad equipment is being conveyed to the Trustee (i) in replacement of Trust Equipment (A) sold or contracted to be sold by the Company or (B) which has become worn out, unsuitable for use, lost or destroyed or (ii) against the payment by the Trustee to the Company of cash deposited pursuant to Section 5.06 or 5.08 in respect of Trust Equipment (A) so sold or contracted to be sold or (B) which has become worn out, unsuitable for use, lost or destroyed, Equipment shall mean standard-gauge railroad equipment (other than passenger or work equipment) irrespective of when first put into use. Each unit of the Equipment shall be sold, assigned and transferred to a separate trust for the benefit of the holders of the Trust Certificates of a particular series in accordance with the provisions of Sections 2.08 and 4.01.

Event of Default shall mean any event specified in Section 6.01 to be an Event of Default and any event specified to be an Event of Default with respect to the Trust Certificates of a particular series in the supplemental agreement hereto or the resolution creating such series.

The word *holder*, when used with respect to the Trust Certificates, shall mean a registered holder of the Trust Certificates and shall include the plural as well as the singular number.

Independent Engineer shall mean an engineer, appraiser or other expert appointed by the Company and approved by the Trustee in the exercise of reasonable care who (i) is in fact independent, (ii) does

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not have any substantial interest, direct or indirect, in the Company or in any other obligor on the Trust Certificates or in any Affiliate of the Company or any such other obligor and (iii) is not connected with the Company or any other obligor on the Trust Certificates or any Affiliate of the Company or any such other obligor as an officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions.

Interest Payment Date, when used with respect to the Trust Certificates of any series, shall mean any date specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series as a fixed date on which an instalment of interest on the Trust Certificates of such series is payable.

Investment Securities shall mean (i) bonds, notes or other direct obligations of the United States of America or Canada or obligations for which the faith of the United States of America or Canada is pledged to provide for the payment of the interest and principal thereon, (ii) open market commercial paper of any company incorporated and doing business under the laws of the United States of America or one of the states thereof given a rating of at least "A-1" by Standard and Poor's Corporation or at least "prime-1" by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc., or an equivalent rating by a successor thereto or a similar rating service substituted therefor, and (iii) certificates of deposit of or time deposits in banks or trust companies (including the Trustee) incorporated or doing business under the laws of the United States of America or one of the states thereof having a capital and surplus aggregating at least \$50,000,000 U.S.

Officers' Certificate shall mean a certificate signed by the Chairman, the President or any Vice-President and by the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of the Company. Each such certificate shall include the statements provided for in Section 13.03 if and to the extent required by the provisions thereof.

Opinion of Counsel shall mean an opinion in writing signed by legal counsel who shall be satisfactory to the Trustee and who may,

unless in a particular instance the Trustee shall otherwise require, be an employee of or of counsel to the Company. Each such opinion shall include the statements provided for in Section 13.03 if and to the extent required by the provisions thereof. The acceptance by the Trustee of, and its failure to object to, an Opinion of Counsel shall be sufficient evidence that such counsel is satisfactory to the Trustee.

Overdue Interest Rate, when used with respect to the Trust Certificates of any series, shall mean the rate of interest payable on any overdue principal, premium or interest, as specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series.

Record Date, when used with respect to any Interest Payment Date, shall mean the last Business Day which is more than 15 calendar days prior to such Interest Payment Date.

Request shall mean a written request for the action therein specified delivered to the Trustee, dated not more than ten days prior to the date of delivery to the Trustee and signed on behalf of the Company by the Chairman, the President or any Vice-President of the Company.

Responsible Officer shall mean the chairman of the board of directors, the vice chairman of the board of directors, the chairman of the executive committee, the vice chairman of the executive committee, the president, any vice president, the cashier, the secretary, the treasurer, any trust officer, any assistant vice president, any assistant cashier, any assistant secretary, any assistant treasurer, any assistant trust officer or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

Serial Trust Certificates, when used with respect to the Trust Certificates of any series, shall mean Trust Certificates issued or to be issued hereunder which mature serially on the dates and in the principal amounts specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series or which mature on the single date so

1.01, 2.01

specified and are not subject to sinking fund or other mandatory redemption.

Sinking Fund Redemption Date, when used with respect to the Trust Certificates of any series, shall mean any date specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series as a fixed date on which the Sinking Fund Trust Certificates of such series are required to be redeemed pursuant to any such agreement, resolution or form, whether by means of a sinking fund or otherwise.

Sinking Fund Trust Certificates, when used with respect to the Trust Certificates of any series, shall mean Trust Certificates issued or to be issued hereunder which mature on the date specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series and which are subject to sinking fund or other mandatory redemption as specified therein.

Trust Certificates shall mean the equipment trust certificates issued or to be issued hereunder.

Trust Equipment shall mean all Equipment at the time subject to the terms of this Agreement.

Trust Indenture Act of 1939 shall mean the Trust Indenture Act of 1939 as in force at the date this Agreement is originally executed.

Trustee shall mean Bank of Montreal Trust Company and, subject to the provisions of Article Nine, any successor as trustee hereunder with respect to one or more series of the Trust Certificates.

The words *herein*, *hereof*, *hereby*, *hereto*, *hereunder* and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, paragraph or subdivision hereof.

ARTICLE TWO

TRUST CERTIFICATES AND ISSUANCE THEREOF

SECTION 2.01. *Issuance of Trust Certificates*. The Trust Certificates to be issued under this Agreement may be issued in one or more series. The net proceeds (including accrued interest, but excluding

any premium) of the sale of the Trust Certificates of any series shall, forthwith upon the issuance thereof, be deposited in cash with the Trustee, to be held in trust for the benefit of the holders of the Trust Certificates of such series. At the same time the Company shall, if necessary, deposit with the Trustee, to be held in such trust, any amounts payable by the Company under subparagraph (1) of the first paragraph of Section 5.04. Such accrued interest shall not be deemed to be a part of Deposited Cash, but shall be held by the Trustee and applied against the first payment due under subparagraph (2)(C)(i) of the first paragraph of Section 5.04 with respect to the Trust Certificates of such series. Any premium received upon the sale of the Trust Certificates of such series shall be paid to the Company.

Thereupon, without waiting for the recording or filing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall issue and deliver, as the Company shall direct by Request, Trust Certificates of such series in the aggregate principal amount so sold. Such Trust Certificates may be issued either as Serial Trust Certificates or Sinking Fund Trust Certificates, or any combination thereof, as specified by the Company in such Request consistently with the supplemental agreement hereto or the resolution creating such series. If either Serial Trust Certificates or Sinking Fund Trust Certificates of any series shall not have been issued under this Agreement, then all provisions hereof relating to Trust Certificates of the type not so issued shall be deemed to be of no force or effect, except the provisions authorizing the original issue of Trust Certificates of such type.

The aggregate principal amount of the Trust Certificates which shall be executed and delivered by the Trustee hereunder shall not be limited except as herein expressly provided.

SECTION 2.02. *Interests Represented by Trust Certificates; Interest; Maturity; Denominations.* Each of the Trust Certificates of any series issued hereunder shall represent an interest in the amount therein specified in the trust created hereunder for such series.

The Trust Certificates of each series shall mature on the date or dates specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates

2.02, 2.03

for such series and shall bear interest at the rate or rates, payable on each of the Interest Payment Dates, specified therein. Except as otherwise specified in the supplemental agreement hereto or the resolution creating the Trust Certificates of a particular series, interest on the Trust Certificates of such series shall be computed on the basis of a 360-day year of twelve 30-day months.

So long as there is no existing default (disregarding any period of grace permitted by Section 6.01(a)(1) or by any other Event of Default with respect to the Trust Certificates of a particular series) in the payment of interest on the Trust Certificates of such series, the registered holder of any Trust Certificate of such series at the close of business on any Record Date with respect to any Interest Payment Date for the Trust Certificates of such series shall be entitled to receive the interest payable on such Interest Payment Date notwithstanding any transfer or exchange of such Trust Certificate subsequent to such Record Date and on or prior to such Interest Payment Date, except as and to the extent that default shall be made in the payment of the interest due on such Interest Payment Date, in which case such defaulted interest shall be paid to the registered holder of such Trust Certificate on the date of payment of such defaulted interest.

Definitive Trust Certificates shall be in denominations of \$1,000 U.S. and any multiple thereof, unless otherwise specified with respect to a particular series pursuant to Section 2.03(b).

The principal (and premium, if any) of and interest on the Trust Certificates shall be payable at the Corporate Trust Office, unless another place of payment is specified with respect to a particular series pursuant to Section 2.03(b), in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts; *provided, however*, that, at the option of the Trustee, payment of interest may be made by check mailed to the addresses of the persons entitled thereto as such addresses shall appear upon the registry books of the Trustee.

SECTION 2.03. *Forms of Trust Certificates and Guaranty.* (a) The Trust Certificates and the guaranty to be endorsed on the Trust

Certificates by the Company as hereinafter in Section 7.01 provided shall be in substantially the forms hereinbefore set forth, with such appropriate insertions, omissions, substitutions and other variances as are required or permitted by this Agreement, and the Trust Certificates may have imprinted or otherwise reproduced thereon such legend or legends, not inconsistent with the provisions of this Agreement, as may be required to comply with any law, with any rules or regulations promulgated thereunder or with any rules of any securities exchange or to conform to general usage, or as may be determined, consistently herewith, by the officers executing the supplemental agreement hereto or the Officers' Certificate referred to in the next paragraph, as evidenced by their execution of such supplemental agreement or Officers' Certificate.

The definitive Trust Certificates shall be in fully engraved form, lithographed or printed with steel engraved borders, partially engraved and partially printed with steel engraved borders or printed.

(b) There shall be established in one or more supplemental agreements hereto, or in or pursuant to a resolution of the Board of Directors and set forth in an Officers' Certificate, with respect to each series of the Trust Certificates prior to the issuance of any Trust Certificates of such series:

(1) the title of the Trust Certificates of such series (which shall distinguish such Trust Certificates from the Trust Certificates of all other series);

(2) any limit upon the aggregate principal amount of the Trust Certificates of such series which may be delivered under this Agreement (except as provided in Sections 2.05, 2.06, 2.07 and 3.02);

(3) the date or dates on which the principal of the Trust Certificates of such series shall be payable;

(4) the rate or rates (or the method by which such rate or rates shall be determined) at which the Trust Certificates of such series shall bear interest, the date or dates from which such interest shall accrue (or the method by which such date or dates shall be determined) and the Interest Payment Dates on which such interest shall be payable;

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(5) the place or places where the principal (and premium, if any) of and interest on the Trust Certificates of such series shall be payable;

(6) the price or prices at which, the period or periods within which and the terms and conditions upon which the Trust Certificates of such series may be redeemed, in whole or in part, at the option of the Company;

(7) the obligation, if any, of the Trustee to redeem, purchase or repay the Trust Certificates of such series pursuant to any sinking fund or any analogous provisions for the mandatory redemption, purchase or repayment thereof or at the option of a holder thereof, and the price or prices at which, the period or periods within which and the terms and conditions upon which the Trust Certificates of such series shall be so redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

(8)(i) the date after which Equipment to be held in trust for the benefit of the holders of the Trust Certificates of such series shall have been first put into use and (ii) the date from which and the fraction by which the Depreciated Cost of such Equipment shall be computed;

(9)(i) the Deposited Cash Percentage for the Trust Certificates of such series and (ii) the Depreciated Cost Percentage for the Trust Certificates of such series;

(10) if other than denominations of \$1,000 U.S. and any multiple thereof, the denominations in which the Trust Certificates of such series shall be issuable;

(11) any other terms of the Trust Certificates of such series (which terms shall not be inconsistent with the provisions of this Agreement);

(12) additional Events of Default, if any, with respect to the Trust Certificates of such series;

(13) if other than the Trustee, any trustees, transfer agents or registrars with respect to the Trust Certificates of such series; and

(14) the date to be borne by the Trust Certificates of such series if issued prior to the first Interest Payment Date with respect thereto, subject to Section 2.06(a).

All Trust Certificates of each series shall be substantially identical except as to denomination and except as may otherwise be provided in the supplemental agreement hereto or the resolution creating such series.

SECTION 2.04. *Execution by Trustee.* The Trust Certificates shall be signed in the name and on behalf of the Trustee by the manual or facsimile signature of its President, one of its Vice Presidents or one of its Assistant Vice Presidents and its corporate seal or a facsimile thereof shall be affixed or imprinted thereon and attested by the manual signature of one of its Authorized Officers. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any Trust Certificate shall cease to be such officer of the Trustee before such Trust Certificate shall have been issued and delivered by the Trustee or shall not have been acting in such capacity on the date of such Trust Certificate, such Trust Certificate may be adopted by the Trustee and be issued and delivered as though such person had not ceased to be or had then been such officer of the Trustee.

In executing the Trust Certificates of any new series and accepting the additional responsibilities under this Agreement with respect thereto, the Trustee shall be entitled to receive and, subject to Section 9.02, shall be fully protected in relying upon:

(1) the supplemental agreement hereto or the resolution creating such series, together with a copy of any resolution or resolutions of the Board of Directors authorizing action taken pursuant thereto, in each case certified by the Secretary or any Assistant Secretary of the Company;

(2) any Officers' Certificate required by Section 2.03(b); and

(3) an Opinion of Counsel, prepared in accordance with Section 13.03, to the effect that:

(A) the form and terms of the Trust Certificates of such series have been established in conformity with the provisions of this Agreement;

2.04, 2.05, 2.06

(B) such Trust Certificates, when executed and delivered by the Trustee with the guaranty of the Company endorsed thereon in accordance with the provisions of this Agreement, will, subject to any appropriate conditions specified in such Opinion of Counsel, constitute valid and legally binding obligations of the Trustee and the Company entitled to the benefits of this Agreement, subject, as to enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to equitable remedies, such as the remedy of specific performance or injunction, being in the discretion of the court before which they are sought; and

(C) all laws (other than state or provincial securities or blue sky laws) and requirements in respect of the execution and delivery by the Trustee of such Trust Certificates and in respect of the execution and delivery by the Company of the guaranty endorsed thereon have been complied with.

SECTION 2.05. *Temporary Trust Certificates.* Temporary printed Trust Certificates of any series in such form and denominations as the Company may determine, with the approval of the Trustee, may be issued by the Trustee and shall be exchangeable, without charge to the holder thereof, upon surrender thereof to the Trustee for definitive Trust Certificates of such series when the same shall have been prepared. Until such exchange, such temporary Trust Certificates shall be entitled to the same benefits under this Agreement in all respects as such definitive Trust Certificates.

SECTION 2.06. *Characteristics of Trust Certificates.* (a) Each Trust Certificate of each series shall be registered, as to both principal and interest, in the name of the holder; shall be transferable upon presentation and surrender thereof for transfer at the Corporate Trust Office, or at any other office or agency specified pursuant to Section 2.03(b) or by the Trustee for such purpose, in each case accompanied by an appropriate instrument of assignment and transfer duly executed by the registered holder of the surrendered Trust Certificate or by duly authorized attorney in form satisfactory to the

Trustee; and shall be dated as of the Interest Payment Date for the Trust Certificates of such series next preceding the execution thereof by the Trustee, except that (i) if any Trust Certificate of such series shall be executed by the Trustee before the first Interest Payment Date for such series, it shall be dated as of the date specified in the supplemental agreement hereto or the resolution creating such series unless (iii) below is applicable, (ii) if there shall exist a default in the payment of interest on the Trust Certificates of such series at the time of the execution of any Trust Certificate of such series, such Trust Certificate shall be dated as of the date of the beginning of the period for which such interest is so in default and (iii) so long as there is no existing default in the payment of interest on the Trust Certificates of such series, if any Trust Certificate of such series shall be executed by the Trustee after the close of business on any Record Date with respect to any Interest Payment Date for the Trust Certificates of such series and on or prior to such Interest Payment Date, it shall be dated as of such Interest Payment Date. The registered holder of any Trust Certificate of any series dated as of an Interest Payment Date as provided in (iii) above shall, if default shall be made in the payment of interest due on such Interest Payment Date and such default shall be continuing, be entitled to exchange such Trust Certificate for one or more Trust Certificates of such series of like tenor and of the same aggregate principal amount dated as of the Interest Payment Date for the Trust Certificates of such series next preceding the Interest Payment Date first mentioned in this sentence. If the Trustee shall have knowledge at any time that any registered holder of a Trust Certificate of any series shall be entitled by the provisions of the next preceding sentence to exchange such Trust Certificate, the Trustee shall within 30 days mail to such holder at the address of such holder appearing upon the registry books of the Trustee a notice informing such holder of such right of exchange.

(b) The several denominations of the Trust Certificates of each series of the same maturity and interest rate shall be interchangeable in authorized denominations at the Corporate Trust Office, unless otherwise specified with respect to a particular series pursuant to Section 2.03(b) or by the Trustee.

2.06, 2.07

(c) Anything contained herein to the contrary notwithstanding, the parties hereto may deem and treat the registered holder of any Trust Certificate as the absolute owner of such Trust Certificate for all purposes and shall not be affected by any notice to the contrary.

(d) The Trustee shall cause to be kept at the Corporate Trust Office and at each other office or agency designated pursuant to Section 2.03(b) or Section 2.06(a) registry books for the transfer or exchange of the Trust Certificates.

(e) For any transfer or exchange of the Trust Certificates, the Trustee shall require the payment of a sum sufficient to reimburse it for any governmental charge connected therewith.

(f) Subject to Section 2.06(a), each Trust Certificate of any series delivered pursuant to any provision of this Agreement in exchange or substitution for, or upon the transfer of, the whole or any part, as the case may be, of one or more other Trust Certificates of such series shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by the whole or such part, as the case may be, of such one or more other Trust Certificates.

(g) The Trustee shall not be required (i) to transfer or exchange any Trust Certificate of any series during a period of 15 calendar days immediately preceding any date for the payment of defaulted interest with respect to the Trust Certificates of such series, (ii) to issue, transfer or exchange any Trust Certificate of any series during a period of 15 calendar days immediately preceding any selection of the Trust Certificates of such series to be redeemed or (iii) to transfer or exchange any Trust Certificate of any series called or being called for redemption in whole or in part.

SECTION 2.07. *Replacement of Lost Trust Certificates.* In case any Trust Certificate of any series shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate of such series of like tenor and date, and bearing such identifying number or designation as the Trustee may determine, in exchange and substitution for, and upon cancelation of, the mutilated or defaced Trust Certificate, or in lieu of and in substitution for the same if lost, destroyed or stolen. The Company shall execute its guaranty

on any new Trust Certificate so delivered. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, destruction or theft of any Trust Certificate alleged to have been lost, destroyed or stolen and of the ownership and authenticity of any mutilated, defaced, lost, destroyed or stolen Trust Certificate, shall furnish such security or indemnity as may be required by the Trustee and by the Company in their discretion and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates are held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, destroyed or stolen Trust Certificates and shall preclude, to the extent lawful, any and all other rights and remedies.

SECTION 2.08. *Separate Trusts for the Holders of Each Series.* The Trustee and the Company agree, and each holder of any Trust Certificate by accepting the same shall be deemed to have agreed, that, except as otherwise expressly provided herein (i) the provisions of this Agreement shall apply separately to the Trust Certificates of each series as fully and to the same extent as though such series were the only series of Trust Certificates issued pursuant hereto and (ii) the Deposited Cash deposited with the Trustee pursuant to Section 2.01 in respect of the issuance of the Trust Certificates of a particular series, the Trust Equipment sold, assigned and transferred to the Trustee pursuant to Section 4.01, 4.03 or 5.03 with respect to the Trust Certificates of such series against the release of such Deposited Cash and any cash or Equipment substituted for such Trust Equipment pursuant to Article Five shall be held by the Trustee in trust for the exclusive benefit of the holders of the Trust Certificates of such series. The Trustee shall maintain such books and records as are necessary to ensure that the trusts created hereunder for the holders of each series of the Trust Certificates are kept separate and distinct. To the extent that any fees or expenses of the Trustee are applicable to more than one such trust, such fees and expenses shall be allocated to each such trust in such manner as the Trustee shall deem appropriate and fair.

SECTION 2.09. *Legal Holidays.* In any case where the date upon which any Trust Certificate of any series shall mature, or any Interest Payment Date or Sinking Fund Redemption Date with respect

2.09, 3.01, 3.02

thereto, shall not be a Business Day, then (notwithstanding any other provisions of the Trust Certificates of such series or of this Agreement) payment of the principal (and premium, if any) of or interest on any Trust Certificates of such series need not be made on such date, but shall be made on the next succeeding Business Day with the same force and effect as though made on the nominal date upon which any such Trust Certificate shall mature or any such Interest Payment Date or Sinking Fund Redemption Date shall occur, and no interest shall accrue for the period from and after any such nominal date.

ARTICLE THREE

REDEMPTION OF TRUST CERTIFICATES

SECTION 3.01. *Applicability of Article; Right of Redemption and Redemption Price.* (a) The provisions of this Article Three shall be applicable to the Trust Certificates of any series which by their terms are subject to either mandatory or optional redemption prior to maturity or are entitled to the benefit of any sinking fund for the retirement thereof, except as otherwise specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series.

(b) To the extent that the Trust Certificates of any series are issued as Sinking Fund Trust Certificates, such Trust Certificates shall be redeemed through the application of payments made by the Company pursuant to subparagraph (2)(D) of the first paragraph of Section 5.04 on the Sinking Fund Redemption Dates and at the redemption price or prices specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series, plus in each case accrued interest to the date fixed for redemption.

SECTION 3.02. *Selection of Trust Certificates for Redemption; Notice of Optional Redemption to Trustee; Notice of Redemption to Holders of Trust Certificates.* (a) With respect to the Trust Certificates of any series which are issued as Sinking Fund Trust Certificates, the Trustee shall, not less than 30 days prior to each applicable Sinking Fund Redemption Date, select for redemption, in such manner as in its

discretion it shall deem appropriate and fair, the Trust Certificates of such series or portions thereof to be redeemed so as to exhaust the payment to be made by the Company pursuant to subparagraph (2)(D) of the first paragraph of Section 5.04 on the next succeeding Sinking Fund Redemption Date, *provided* that Trust Certificates may be redeemed in part only in multiples of \$1,000 U.S. unless otherwise specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series.

(b) Not less than 45 days (unless a shorter notice shall be satisfactory to the Trustee) and not more than 75 days prior to any optional redemption of the Trust Certificates of any series, the Company shall give notice thereof to the Trustee, specifying the date fixed for such optional redemption, the principal amount of the Trust Certificates of such series to be redeemed on such date and the accrued interest and premium, if any, to be paid upon such optional redemption. Not more than 15 days after the giving of such notice of optional redemption by the Company, the Trustee shall select for redemption, in such manner as in its discretion it shall deem appropriate and fair, the Trust Certificates of such series or portions thereof to be optionally redeemed as specified in such notice, *provided* that Trust Certificates may be redeemed in part only in multiples of \$1,000 U.S. unless otherwise specified in the supplemental agreement hereto or the resolution creating such series or in the form or forms of the Trust Certificates for such series.

(c) The Trustee shall mail notice of redemption at least 30 days but not more than 60 days prior to each redemption date to the holders of the Trust Certificates of any series to be redeemed, in whole or in part, at their last addresses as they shall appear upon the registry books of the Trustee. Failure to receive such notice, or any defect therein, shall not affect the validity of any proceedings for the redemption of the Trust Certificates of such series. The notice of redemption shall specify the basis on which such redemption is being made and the date fixed for redemption and shall state that payment of the principal amount (and premium, if any) of such Trust Certificates or portions thereof to be redeemed will be made (provided the Company has deposited the necessary cash for such redemption) at

3.02, 3.03

the Corporate Trust Office, or at any other place designated pursuant to Section 2.03(b), upon presentation and surrender of such Trust Certificates, that accrued interest to the date fixed for redemption will be paid as specified in such notice and that from and after such date interest thereon or on the portions thereof to be redeemed will cease to accrue. The notice of redemption shall also state the aggregate principal amount of the Trust Certificates of such series to be redeemed and, unless all outstanding Trust Certificates of such series are then being redeemed, the serial numbers thereof; and in case there shall have been selected as aforesaid less than the entire principal amount of any Trust Certificate of such series, the notice shall specify the serial number of such Trust Certificate and the principal amount thereof called for redemption and shall state that on and after the redemption date, upon surrender of such Trust Certificate to the Trustee, the holder will receive the redemption price in respect of the principal amount thereof called for redemption and, without charge, a new Trust Certificate of such series for the principal amount thereof remaining unredeemed or, at the option of the holder of such Trust Certificate, the return of such Trust Certificate with a notation thereon by the Trustee of the payment of the redeemed portion thereof. The serial numbers of the Trust Certificates of any series to be redeemed which are required to be included in any such notice may be stated in any one or more of the following ways: individually; in groups from one number to another number, both inclusive; in groups from one number to another number, both inclusive, except such as shall have been previously called for redemption or otherwise retired; or in such other manner as the Trustee shall deem appropriate.

SECTION 3.03. *Payment of Trust Certificates Called for Redemption.* The Company, on or before the redemption date specified in any notice of redemption, having deposited with the Trustee an amount in cash sufficient to redeem all the Trust Certificates of any series or portions thereof called for redemption in such notice, such Trust Certificates or portions thereof called for redemption shall become due and payable on such redemption date at the Corporate Trust Office, or at any other place of payment for such series designated pursuant to Section 2.03(b); and from and after such redemption date, interest on

such Trust Certificates or portions thereof shall cease to accrue and such Trust Certificates or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to any benefits of this Agreement other than the right to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the redemption moneys in trust for the holders of the Trust Certificates of such series or portions thereof called for redemption and shall pay the same to such holders respectively upon presentation and surrender of such Trust Certificates.

Except as provided in Section 3.02, all Trust Certificates of any series redeemed and paid under this Article Three shall be canceled by the Trustee and no Trust Certificates of any series shall be issued hereunder in place thereof.

ARTICLE FOUR

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 4.01. *Acquisition of Equipment by Trustee.* Prior to the execution and delivery of the Trust Certificates of any series, the Company shall deliver a supplemental agreement hereto setting forth the Equipment proposed to be sold, assigned and transferred to the Trustee, as trustee for the benefit of the holders of the Trust Certificates of such series, such Equipment to be described by quantity and type, including the class, capacity in gallons or tonnage and car numbers. The Company shall, from time to time thereafter, cause to be sold, assigned and transferred to the Trustee, as trustee for the benefit of the holders of the Trust Certificates of such series, such of the Equipment described in such supplemental agreement as shall have an aggregate Depreciated Cost at least equal to the product of the Depreciated Cost Percentage for such series and the aggregate principal amount of the Trust Certificates of such series theretofore issued and sold pursuant to Section 2.01, and any Equipment not so sold, assigned or transferred shall be excluded from the trust for the benefit of the holders of the Trust Certificates of such series by a supplemental agreement hereto to be entered into by the Trustee and the Company. The Equipment so sold, assigned and transferred shall

4.01, 4.02, 4.03

be delivered to the person or persons designated by the Trustee as its agent or agents to receive such delivery (who may be one or more of the officers or agents of the Company), and the certificate of any such agent or agents as to such delivery shall be conclusive evidence of such delivery.

In the event that the Company shall deem it necessary or desirable to procure for the use of the Company, and to include in the trust hereby created for the benefit of the holders of the Trust Certificates of any series, other Equipment in lieu of or in addition to any of the Equipment specifically described in a supplemental agreement hereto prior to the delivery of the Equipment so described to the Trustee or its agent or agents, the Company may cause to be sold, assigned and transferred to the Trustee such other Equipment, to be included in such trust; and any Equipment in lieu of which such other Equipment is included in such trust shall be excluded therefrom by a supplemental agreement hereto to be entered into by the Trustee and the Company.

SECTION 4.02. *Payment of Deposited Cash.* From time to time, when and as any of the Trust Equipment to be held in trust for the benefit of the holders of the Trust Certificates of a particular series shall have been delivered to the Trustee or its agent or agents pursuant to Section 4.01, the Trustee shall pay, upon Request, to the manufacturers or owners of such delivered Trust Equipment out of Deposited Cash held for the benefit of the holders of the Trust Certificates of such series an amount equal to the product of the Deposited Cash Percentage for such series and the aggregate Depreciated Cost of such Trust Equipment (which shall be set forth in the Officers' Certificate furnished to the Trustee pursuant to subparagraph (2) of the first paragraph of Section 4.03). In the event the Company is not the manufacturer or owner, the Company shall pay directly to such manufacturer or owner the balance of the Cost of such delivered Trust Equipment and shall furnish to the Trustee evidence satisfactory to the Trustee that such payment has been made.

SECTION 4.03. *Supporting Papers.* The Trustee shall not pay out any Deposited Cash against the delivery of any Trust Equipment to be held in trust for the benefit of the holders of the Trust Certificates of a particular series unless and until it shall have received:

(1) a certificate of the agent or agents designated by the Trustee to receive delivery of such Trust Equipment which shall state that the units of such Trust Equipment described therein (by type and number or numbers) have been delivered to such agent or agents (the date of such certificate to be conclusively presumed to be the date of such delivery);

(2) an Officers' Certificate which shall state (i) the series of Trust Certificates to which such Trust Equipment relates, (ii) that such Trust Equipment is Equipment with respect to the Trust Certificates of such series, (iii) that the Cost and Depreciated Cost of such Trust Equipment are amounts therein specified or are not less than amounts therein specified, (iv) the date each unit of such Trust Equipment was first put into use or that such unit was first put into use not earlier than a specified date, (v) whether such Trust Equipment has, within six months prior to the date of its acquisition by the Company, been used or operated, by a person or persons other than the Company or a wholly-owned Affiliate of the Company, in a business similar to that in which it has been or is to be used or operated by the Company and (vi) that, in the opinion of the signers, all conditions precedent provided for in this Agreement relating to the payment in question have been complied with;

(3) an Engineer's Certificate which shall state the fair value to the Company, in the opinion of the signer, of such Trust Equipment as of the date of the related Request delivered pursuant to Section 4.02;

(4) a bill or bills of sale covering such Trust Equipment from the manufacturers or owners thereof to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee that title to the Trust Equipment described therein is free from all liens and encumbrances (including any leasehold interest therein) other than the rights of the Company hereunder;

(5) an Opinion of Counsel to the effect that (i) such bill or bills of sale are valid and effective, either alone or in conjunction with any other instrument referred to in and accompanying such opinion, to vest in the Trustee title to such Trust Equipment free

4.03

from all liens and encumbrances (including any leasehold interest therein) other than the rights of the Company hereunder, (ii) a proper supplemental agreement hereto in respect of such Trust Equipment (including a description of such Trust Equipment and the principal financial terms of the Trust Certificates of the series for the benefit of the holders of which such Trust Equipment is to be held in trust) has been duly executed by the Trustee and the Company and (iii) in the opinion of such counsel, all conditions precedent provided for in this Agreement relating to the payment in question have been complied with; and

(6) evidence of any payment required to be made by the Company pursuant to the last sentence of Section 4.02.

If any of such Trust Equipment for which payment is being made has, within six months prior to the date of its acquisition by the Company, been used or operated, by a person or persons other than the Company or a wholly-owned Affiliate of the Company, in a business similar to that in which it has been or is to be used or operated by the Company and the fair value to the Company of such Trust Equipment is not less than \$25,000 U.S. and not less than 1% of the aggregate principal amount at the time outstanding of the Trust Certificates of the series for the benefit of the holders of which such Trust Equipment is to be held in trust, the Engineer's Certificate referred to in subparagraph (3) above shall be signed by an Independent Engineer.

Any Officers' Certificate delivered pursuant to this Section 4.03 may state that the Cost or Depreciated Cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment to be evidenced in a final Officers' Certificate to be delivered to the Trustee.

If the aggregate final Depreciated Cost or fair value, whichever is less, as specified in the certificates theretofore delivered to the Trustee pursuant to this Section 4.03, of the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of a particular series delivered to the Trustee or its agent or agents pursuant to this Article Four shall be less than the product of the Depreciated Cost Percentage for such series and the aggregate principal amount of the

Trust Certificates of such series issued pursuant to Section 2.01, the Company will cause to be sold, assigned and transferred to the Trustee, for the benefit of the holders of the Trust Certificates of such series in accordance with Section 4.01, additional Equipment in such amount and of such Cost and Depreciated Cost that the aggregate final Depreciated Cost or fair value, whichever is less, of all the Trust Equipment so held in trust will be at least the product of the Depreciated Cost Percentage for such series and such aggregate principal amount.

ARTICLE FIVE

CONDITIONAL SALE OF TRUST EQUIPMENT TO COMPANY

SECTION 5.01. *Conditional Sale of Trust Equipment.* The Trustee does hereby resell to the Company immediately after acquisition thereof by the Trustee pursuant to Section 4.01 or 4.03 each item of the Trust Equipment to be held in trust for the benefit of the holders of the Trust Certificates of a particular series for a purchase price equal to the product of the Deposited Cash Percentage for such series and the Depreciated Cost of such Trust Equipment.

The Trustee does hereby retain title to and a security interest in the Trust Equipment to be held in trust for the benefit of the holders of the Trust Certificates of each series until the Company shall have made all payments to be made by it under this Agreement with respect to the Trust Certificates of such series and shall have observed and performed all its related agreements herein contained, notwithstanding the delivery of such Trust Equipment to and the possession and use thereof by the Company as provided in this Agreement. Any and all additions to such Trust Equipment (other than additions, no portion of the cost of which shall have been paid out of Deposited Cash, which are readily removable without causing material damage to such Trust Equipment) and any and all replacements of such Trust Equipment and of parts thereof and additions thereto shall constitute accessions to such Trust Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Trust Equipment" as used in this Agreement.

5.02, 5.03, 5.04

SECTION 5.02. *Equipment Automatically Subjected.* As and when any Equipment shall from time to time be delivered hereunder to the Trustee or its agent or agents, the same shall, *ipso facto* and without further instrument of sale or transfer, pass under and become subject to all the terms and provisions hereof.

SECTION 5.03. *Substituted Equipment Subject Hereto.* In the event that the Company shall, as provided in Section 4.01, 4.03, 5.06 or 5.08, cause to be transferred to the Trustee other Equipment in addition to or in substitution for any of the Equipment or the Trust Equipment to be held or held in trust for the benefit of the holders of the Trust Certificates of a particular series, such other Equipment shall be included as part of the Trust Equipment so held in trust by supplemental agreement hereto and shall be subject to all the terms and conditions hereof in all respects as though it had originally been part of the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of such series.

SECTION 5.04. *Purchase Price and Payment.* The Company hereby covenants and agrees to accept delivery and possession hereunder of the Trust Equipment to be held in trust for the benefit of the holders of the Trust Certificates of each series; and the Company covenants and agrees to pay to the Trustee at the Corporate Trust Office or at such other place as may be acceptable to the Trustee (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America (or, in the case of taxes, in the appropriate currency) as at the time of payment shall be legal tender for the payment of public and private debts, such amounts in respect of the purchase of such Trust Equipment as shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery to the Company of any of such Trust Equipment):

(1) the Company shall pay to the Trustee, at the time of issue of the Trust Certificates of each series pursuant to Section 2.01, a sum which, when added to the net proceeds (excluding accrued interest) of the sale of such Trust Certificates deposited with or to the credit of the Trustee, will make the total sum deposited equal to the principal amount of such Trust Certificates so issued; and

(2) in addition to such amount, the Company shall pay to the Trustee, in cash, the following amounts (notwithstanding that any of the Trust Certificates of such series shall have been acquired by the Company or shall not have been presented for payment):

(A) from time to time upon demand of the Trustee (i) the necessary and reasonable expenses of the trust hereby created for the Trust Certificates of such series, including compensation and expenses provided for herein, and (ii) an amount equal to any expenses incurred for the benefit of such trust in connection with any purchase or sale of Investment Securities or any loss incident to the sale or redemption of any Investment Securities held in such trust for a sum less than the amount paid therefor, including any premium and accrued interest;

(B) from time to time upon demand of the Trustee, any and all taxes, assessments and governmental charges upon or on account of the income or property of such trust, or upon or on account of this Agreement, which the Trustee as such may be required to pay;

(C) an amount on account of interest on the unpaid purchase price of such Trust Equipment equal to (i) the amounts of the interest payable on the Trust Certificates of such series, when and as the same shall become payable, and (ii) interest at the Overdue Interest Rate for such series from the due date upon any amount payable under this subdivision (C) and the following subdivisions (D) and (E) which shall not be paid when due, to the extent legally enforceable, but excluding any tax, assessment or other governmental charge required by any present or future law of the United States of America or Canada or any state, province, county, municipality or other taxing authority thereof to be paid on behalf of, or withheld from the amount payable to, the holder of the Trust Certificates of such series;

5.04, 5.05

(D) an amount on account of the unpaid purchase price of such Trust Equipment sufficient to redeem on any Sinking Fund Redemption Date or other redemption date specified in any notice given to the holders of the Trust Certificates of such series pursuant to Section 3.02 the principal amount (and premium, if any) of such Trust Certificates called for redemption on such date pursuant to the supplemental agreement hereto or the resolution creating such series or the form or forms of such Trust Certificates; and

(E) an amount on account of the unpaid purchase price of such Trust Equipment equal to the principal of the Trust Certificates of such series (other than such Trust Certificates as have been called for redemption and redeemed as provided in Article Three) upon the maturity thereof, whether by declaration or otherwise.

Unless otherwise specified in the supplemental agreement hereto or the resolution creating the Trust Certificates of a particular series, nothing herein or in the Trust Certificates of any series contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the holder of any Trust Certificate of any series any tax, assessment or other governmental charge required by any present or future law of the United States of America or Canada or any state, province, county, municipality or other taxing authority thereof to be paid on behalf of, or withheld from the amount payable to, the holder of any Trust Certificate of any series.

The Company shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, provided that the rights or interests of the Trustee or of the holders of the Trust Certificates will not be materially endangered thereby and the Company shall have furnished the Trustee with an Opinion of Counsel to such effect.

SECTION 5.05. *Transfer of Title and Termination of Security Interest; Discharge of Agreement.* (a) After all payments due or to become due from the Company hereunder with respect to the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of a particular series and with respect to such Trust

Certificates shall have been completed and fully made to the Trustee (i) any moneys remaining in the hands of the Trustee with respect to such Trust Equipment and Trust Certificates, after providing for payment in full of all outstanding Trust Certificates of such series and after paying the expenses of the Trustee, including its reasonable compensation, with respect to the trust for the benefit of the holders of such Trust Certificates, shall be paid to the Company; (ii) title to all such Trust Equipment shall vest in the Company; (iii) the security interest of the Trustee with respect to such Trust Equipment shall terminate; and (iv) the Trustee shall execute for record in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon the public records the Company's title to all such Trust Equipment and the termination of the security interest of the Trustee with respect thereto under the laws of any jurisdiction; *provided, however*, that until such time title to such Trust Equipment shall not pass to or vest in the Company, but title to and ownership of all such Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery of such Trust Equipment to and the possession and use thereof by the Company.

(b) Upon Request, this Agreement shall cease to be of further effect (except as to any surviving rights of transfer or exchange of the Trust Certificates herein expressly provided for), and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Agreement, when

(1) either (i) all Trust Certificates theretofore issued and delivered (other than (A) Trust Certificates which have been lost, destroyed or stolen and which have been replaced as provided in Section 2.07 and (B) Trust Certificates for whose payment cash has theretofore been deposited with the Trustee in trust and thereafter repaid to the Company as provided in Section 9.15) have been delivered to the Trustee for cancelation or (ii) all such Trust Certificates not theretofore delivered to the Trustee for cancelation (A) shall have become due and payable, (B) will become due and payable at their stated maturity within one year or (C) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice

5.05, 5.06

of redemption by the Trustee, and the Company, in any such case, has deposited or caused to be deposited with the Trustee, as trust funds in trust for the purpose, cash in an amount sufficient to pay and discharge at maturity or upon such redemption, as the case may be, the entire indebtedness on such Trust Certificates not theretofore delivered to the Trustee for cancelation, including principal (and premium, if any) and interest to the date of such deposit (in the case of Trust Certificates which have become due and payable) or to the maturity or redemption date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in this Agreement relating to the satisfaction and discharge of this Agreement have been complied with.

Notwithstanding the satisfaction and discharge of this Agreement, the obligations of the Company to the Trustee under the third paragraph of Section 9.06 and, if cash shall have been deposited with the Trustee pursuant to the preceding paragraph, the obligations of the Trustee under subsection (c) of this Section 5.05 and Section 9.15 shall survive.

(c) Subject to the provisions of Section 9.15, all cash deposited with the Trustee pursuant to subsection (b) of this Section 5.05 shall be held in trust and applied by it, in accordance with the provisions of the Trust Certificates of the applicable series and of this Agreement, to the payment, either directly or through any paying agent (including the Company acting as paying agent) as the Trustee may determine, to the holders entitled thereto of the principal (and premium, if any) and interest of the Trust Certificates for whose payment such cash has been deposited with the Trustee; but such cash need not be segregated from other funds except to the extent required by law.

SECTION 5.06. *Substitution and Replacement of Equipment.* The Trustee shall, at any time and from time to time, upon Request,

execute and deliver a bill of sale assigning and transferring to the transferee named by the Company all the right, title and interest of the Trustee in and to any or all of the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of a particular series and such other documents as may be necessary or advisable to release the security interest of the Trustee with respect thereto; *provided, however*, that none of such Trust Equipment shall be so assigned or transferred (except as provided in Section 5.05 or 5.08) unless simultaneously (i) there shall be conveyed to the Trustee in substitution therefor other Equipment of a fair value to the Company not less than the fair value, as of the date of such Request, of the Trust Equipment so assigned or transferred by the Trustee or (ii) there shall be paid to the Trustee cash in an amount not less than the fair value, as of such date, of the Trust Equipment so assigned or transferred by the Trustee. Any Equipment so conveyed or cash so paid to the Trustee shall be held for the benefit of the holders of the Trust Certificates of such series.

At the time of delivery of any Request pursuant to the first paragraph of this Section 5.06, the Company shall, if other Equipment is to be conveyed to the Trustee in substitution for the Trust Equipment so to be assigned or transferred by the Trustee, deliver to the Trustee the following papers:

(1) an Engineer's Certificate stating (i) the fair value, as of the date of such Request, of the Trust Equipment so to be assigned or transferred by the Trustee, (ii) that such assignment or transfer will not impair the security under this Agreement of the holders of the Trust Certificates of the series for whose benefit such Trust Equipment is then held in trust in contravention of the provisions hereof and (iii) the fair value to the Company of such substituted units of Equipment as of such date;

(2) an Officers' Certificate stating (i) the date each unit of the Trust Equipment so to be assigned or transferred by the Trustee was first put into use or that such unit was first put into use not later than a specified date, (ii) the Cost of each unit of the Equipment so to be substituted and the date it was first put into use or that such unit was first put into use not earlier than a

5.06

specified date, (iii) that each such unit so to be substituted is Equipment with respect to the Trust Certificates of such series, (iv) whether such Equipment to be substituted has, within six months prior to the date of its acquisition by the Company, been used or operated, by a person or persons other than the Company or a wholly-owned Affiliate of the Company, in a business similar to that in which it has been or is to be used or operated by the Company, (v) that no Event of Default with respect to the Trust Certificates of such series has occurred and is continuing and (vi) that, in the opinion of the signers, all conditions precedent provided for in this Agreement relating to such substitution have been complied with;

(3) a certificate and a bill or bills of sale in respect of such substituted Equipment as provided for in subparagraphs (1) and (4) of the first paragraph of Section 4.03; and

(4) an Opinion of Counsel to the effect that (i) such bill or bills of sale are valid and effective, either alone or in conjunction with any other instrument referred to in and accompanying such opinion, to vest in the Trustee title to such substituted Equipment free from all liens and encumbrances (including any leasehold interest therein) other than the rights of the Company hereunder, (ii) a proper supplemental agreement hereto in respect of such substituted Equipment has been duly executed by the Trustee and the Company and (iii) in the opinion of such counsel, all conditions precedent provided for in this Agreement relating to such substitution have been complied with.

If the fair value of the Trust Equipment to be assigned or transferred by the Trustee from the trust relating to the Trust Certificates of a particular series, together with all other property so assigned or transferred from such trust since the commencement of the then current calendar year, as set forth in the certificate or certificates required by this Section 5.06, is 10% or more of the aggregate principal amount of the Trust Certificates of such series at the time outstanding, the Engineer's Certificate referred to in subparagraph (1) above shall be signed by an Independent Engineer unless the fair value of the Trust Equipment to be assigned or transferred, as set

forth in such certificate, is less than \$25,000 U.S. or less than 1% of the aggregate principal amount of the Trust Certificates of such series at the time outstanding. If any Equipment to be conveyed to the Trustee pursuant to this Section 5.06 for the benefit of the holders of the Trust Certificates of a particular series has, within six months prior to the date of its acquisition by the Company, been used or operated, by a person or persons other than the Company or a wholly-owned Affiliate of the Company, in a business similar to that in which it has been or is to be used or operated by the Company and the fair value to the Company of such Equipment is not less than \$25,000 U.S. and not less than 1% of the aggregate principal amount of the Trust Certificates of such series at the time outstanding, the Engineer's Certificate referred to in subparagraph (1) above shall be signed by an Independent Engineer.

At the time of delivery of any Request pursuant to the first paragraph of this Section 5.06, the Company shall, if cash is to be paid to the Trustee in respect of the Trust Equipment to be assigned or transferred by the Trustee, deliver to the Trustee papers corresponding to those set forth in the second paragraph of this Section 5.06 insofar as they relate to the action requested.

Cash deposited with the Trustee pursuant to this Section 5.06 or pursuant to Section 5.08 shall, from time to time, be paid over by the Trustee from the particular trust hereunder in which it is held to the Company upon Request against conveyance to the Trustee for inclusion in such trust of Equipment having a fair value, as of the date of such Request, not less than the amount of cash so to be paid and upon compliance by the Company with all of the provisions of the second paragraph of this Section 5.06 (including delivery of an Engineer's Certificate corresponding to that required by subparagraph (1) thereof with respect to such Equipment) insofar as they relate to the action requested.

For all purposes of this Section 5.06, where fair value is not required to be determined by an Independent Engineer, fair value shall be determined as follows (and the manner of such determination shall be set forth in each Engineer's Certificate furnished in respect

5.06, 5.07

thereof, including a statement of actual fair value without reference to the provisions of subdivision (ii) of subparagraphs (1) and (2) of this paragraph):

(1) the fair value of any unit of Trust Equipment assigned or transferred by the Trustee as provided in this Section 5.06 shall be deemed to be the greater of (i) the actual fair value thereof and (ii) the Cost thereof as theretofore certified to the Trustee less 1/20th of such Cost for each full period of one year elapsed between the date such unit was first put into use, as certified to the Trustee, and the date as of which fair value is to be determined; and

(2) the fair value of any unit of Equipment conveyed to the Trustee as provided in this Section 5.06 shall be deemed to be the lesser of (i) the actual fair value thereof and (ii) the Cost of such unit, if new, or, in case of any unit of Equipment not new (A) the depreciated book value thereof on the books of the owner thereof, as of the date of the transfer thereof to the Trustee, or (B) the Cost thereof less 1/20th of such Cost for each full period of one year elapsed between the date such unit was first put into use and the date of the transfer thereof to the Trustee, whichever shall be less.

For all purposes of this Section 5.06, where fair value is required to be determined by an Independent Engineer, such fair value shall be determined without requiring reference to the provisions of subparagraphs (1) and (2) of the immediately preceding paragraph.

SECTION 5.07. *Marking of Trust Equipment.* The Company agrees that, as soon as practicable after the delivery to the Trustee pursuant to this Agreement of each unit of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of such unit a metal plate bearing the following words, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of such unit, in either case in letters not less than one-half inch in height:

CANADIAN PACIFIC LIMITED EQUIPMENT TRUST
BANK OF MONTREAL TRUST COMPANY
TRUSTEE, OWNER

Such plates or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of each unit of the Trust Equipment.

In case, prior to the transfer of title and termination of the security interest provided for herein, any of such plates or marks shall at any time be removed, defaced, obliterated or destroyed, the Company shall forthwith cause the same to be restored or replaced. The Company shall not change, or permit to be changed, the numbers of any of the Trust Equipment at any time covered hereby (or any numbers which may have been substituted as herein provided) except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with the Trustee by the Company and which shall be filed and recorded in like manner as this Agreement.

The Trust Equipment may be lettered in any appropriate manner for convenience of identification of the interest of the Company therein; but the Company, during the continuance of the security interest provided for herein, will not allow the name of any person, firm, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by the Company or by any person, firm, association or corporation other than the Trustee.

SECTION 5.08. *Maintenance of Trust Equipment.* The Company agrees that it will maintain and keep, at its own cost and expense, all the Trust Equipment in good order and proper repair (ordinary wear and tear excepted) unless and until it becomes worn out, unsuitable for use, lost or destroyed (hereinafter called a Casualty Occurrence). Whenever any of the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of a particular series shall suffer a Casualty Occurrence, the Company shall, within 30 days after it shall have obtained knowledge of such Casualty Occurrence, deliver to the Trustee an Engineer's Certificate describing such Trust Equipment, identifying the series of Trust Certificates for the benefit of the holders of which it was held in trust and stating the fair value thereof as of the date such Trust Equipment suffered such Casualty Occurrence. When the total fair value of the Trust Equipment held in trust

5.08

for the benefit of the holders of the Trust Certificates of a particular series having suffered a Casualty Occurrence (exclusive of such Trust Equipment having suffered a Casualty Occurrence in respect of which a payment or conveyance shall have been made to the Trustee for the benefit of the holders of the Trust Certificates of such series pursuant to this Section 5.08) shall exceed the greater of \$500,000 U.S. or 1% of the original aggregate principal amount of the Trust Certificates of such series (or such lesser amount as the Company may at any time elect), the Company shall convey in the manner specified in Section 5.06, within 30 days after it shall have obtained knowledge of the Casualty Occurrence requiring such conveyance, to the Trustee for the benefit of the holders of the Trust Certificates of such series Equipment having a fair value not less than the fair value of such Trust Equipment as of the respective dates of the Casualty Occurrence in respect thereof; *provided, however*, that the Company may upon Request, in lieu of such conveyance of Equipment, deposit within such 30-day period with the Trustee for the benefit of the holders of the Trust Certificates of such series an amount in cash equal to the fair value of such Trust Equipment as of the respective dates of the Casualty Occurrence in respect thereof.

The rights and remedies of the Trustee to enforce or to recover any of the amounts payable hereunder shall not be affected by reason of any Casualty Occurrence. Cash deposited with the Trustee pursuant to this Section 5.08 shall be held and applied as provided in the fourth paragraph of Section 5.06. For all purposes of this Section 5.08, fair value shall be determined in the manner provided in the last two paragraphs of Section 5.06.

The Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once, on or before May 15, in every calendar year, commencing with the calendar year following the calendar year in which the first delivery of Trust Equipment hereunder occurs, during the continuance of the security interest provided for herein an Officers' Certificate, dated not more than 90 days prior to the date such certificate is required to be delivered, stating (i) the amount, description and numbers of all Trust Equipment that has suffered a Casualty Occurrence since the date of the last such preceding statement (or the date this Agree-

ment is originally executed in the case of the first statement) and (ii) that in the case of all the Trust Equipment repainted or repaired since the date of the last such preceding statement (or the date this Agreement is originally executed in the case of the first statement) the plates or marks required by Section 5.07 have been preserved, or that such Trust Equipment when repainted or repaired has been again plated or marked as required thereby. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the Trust Equipment at the then existing locations thereof.

SECTION 5.09. *Possession of Trust Equipment.* Except as provided in this Section 5.09, the Company will not assign or transfer its rights hereunder, or transfer or lease the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Company shall not, without such written consent, except as herein provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. An assignment or transfer to a corporation (whether by merger, consolidation or otherwise) which shall acquire all or substantially all of the property of the Company and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates shall not be deemed a breach of this covenant. The appointment of a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization for the Company or for its property shall not be deemed an unauthorized assignment if, prior to any action by the Trustee to exercise the remedies herein provided, such receiver or receivers or trustee or trustees shall be discharged or such receiver or receivers or trustee or trustees shall, pursuant to court order or decree, in writing duly assume and agree to pay or perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates in such manner that such obligations shall have the same status as obligations incurred by such receiver or receivers or trustee or trustees.

5.09, 5.10

So long as the Company shall not be in default under this Agreement, the Company and any of its Affiliates shall be entitled to the possession and use of the Trust Equipment in accordance with the terms hereof, and the Company may also furnish the Trust Equipment or any part thereof to railroad companies for use upon the lines of railroad owned or operated by them or over which they have trackage rights and upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Agreement and to all rights of the Trustee hereunder.

SECTION 5.10. *Indemnity; Compliance with Law.* The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America, Canada and all the states, provinces and other jurisdictions in which the Trust Equipment, or any thereof, may be operated, and with all lawful acts, rules, regulations and orders of any commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however,* that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE SIX

REMEDIES ON EVENT OF DEFAULT

SECTION 6.01. *Events of Default.* (a) The occurrence of any of the following events with respect to the Trust Certificates of any series shall constitute an Event of Default with respect to the Trust Certificates of such series:

(1) the Company shall default in the payment of any amount payable hereunder with respect to the Trust Certificates of such series for more than 30 days after the same shall have become due and payable;

(2) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or lease of any of the Trust Equipment held for the benefit of the holders of the Trust Certificates of such series or, except as herein authorized, shall part with the possession of any of such Trust Equipment, and shall fail or refuse either to cause such assignment, transfer or lease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within 30 days after the Trustee shall have demanded in writing such cancelation and recovery of possession, or within such 30 days to deposit with the Trustee a sum in cash equal to the initial Depreciated Cost (as certified to the Trustee pursuant to Section 4.03) or, in the case of any Trust Equipment conveyed to the Trustee pursuant to Section 5.06 or 5.08, the fair value (as certified to the Trustee as of the date of conveyance pursuant to Section 5.06 or 5.08) of the Trust Equipment so assigned, transferred or leased or the possession of which shall have been parted with otherwise than as herein authorized (any sum so deposited to be returned to the Company upon the cancelation of such assignment, transfer or lease and the recovery of possession by the Company of such Trust Equipment);

(3) the Company shall, for more than 60 days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed for the benefit of the Trust Certificates of such series or to make provision satisfactory to the Trustee for such compliance; or

6.01

(4) an event of default shall occur under any lease, agreement, equipment trust agreement (including an event of default with respect to any other series of the Trust Certificates issued hereunder) or indenture under which the Company is an obligor and the Trustee is also acting as trustee (the term "event of default" being used in this subparagraph (4) to mean any event which, after any applicable notice and/or period of grace provided for in the instrument in question, permits the trustee thereunder to declare the principal amount of the obligation issued or secured thereby to be immediately due and payable).

(b) In case any Event of Default with respect to the Trust Certificates of a particular series shall occur and be continuing, the Trustee, by notice in writing to the Company, or the holders of not less than 25% in aggregate principal amount of the Trust Certificates of such series then outstanding, by notice in writing to the Company and the Trustee, may declare to be due and payable forthwith the entire amount (excluding amounts required for the payment of interest accruing after the date of such declaration) payable by the Company with respect to all such Trust Certificates then outstanding, as set forth in Section 5.04, and not theretofore paid. Thereupon such entire amount shall forthwith become and shall be due and payable immediately without further demand, together with interest at the Overdue Interest Rate for such series, to the extent legally enforceable, on any portion thereof overdue. In addition, in case any Event of Default with respect to the Trust Certificates of a particular series shall occur and be continuing, the Trustee, by notice in writing to the Company, or the holders of not less than 25% in aggregate principal amount of the Trust Certificates of such series then outstanding, by notice in writing to the Company and the Trustee, may declare the principal of all such Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and shall be due and payable immediately without further demand.

(c) In case the Company shall fail to pay any amount payable with respect to the Trust Certificates of a particular series pursuant to subparagraph 2(C), 2(D) or 2(E) of the first paragraph of Section 5.04, when and as the same shall have become due and payable, and

such default shall have continued for a period of 30 days, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of any such amount so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or any other obligor upon the Trust Certificates of such series and collect in the manner provided by law out of the property of the Company or any other obligor upon such Trust Certificates wherever situated the moneys adjudged or decreed to be payable.

(d) In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor upon the Trust Certificates of a particular series under any applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or such other obligor, or in case of any other judicial proceedings relative to the Company or such other obligor or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the amounts payable hereunder with respect to the Trust Certificates of such series or the principal of such Trust Certificates shall then be due and payable as herein or therein expressed, whether by declaration or otherwise, and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section 6.01, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the entire amount payable hereunder with respect to such Trust Certificates (excluding amounts required for the payment of interest accruing after the date of such declaration, if any); to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred and all advances made by the Trustee except as a result of its negligence or bad faith) and of the holders of such Trust Certificates allowed in such proceedings; and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Trustee and of the holders of such Trust Certificates on their behalf.

6.01, 6.02

Any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of the Trust Certificates of such series to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the holders of such Trust Certificates, to pay to the Trustee such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred and advances made by the Trustee except as a result of its negligence or bad faith.

(e) All rights of action and to assert claims under this Agreement, or under any of the Trust Certificates of any series, may be enforced by the Trustee without the possession of any of such Trust Certificates or the production thereof at any trial or other proceedings relative thereto; any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust; and any recovery of judgment shall be for the ratable benefit of the holders of such Trust Certificates. In any proceedings brought by the Trustee (and also in any proceedings involving the interpretation of any provision of this Agreement to which the Trustee shall be a party), the Trustee shall be held to represent all the holders of such Trust Certificates, and it shall not be necessary to make any holders of such Trust Certificates parties to such proceedings.

SECTION 6.02. *Remedies.* In case of the occurrence and continuance of any Event of Default with respect to the Trust Certificates of any series, the Trustee may, to the extent permitted by law, by its agents enter upon the premises of the Company and of any Affiliate of the Company where any of the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of such series may be and take possession of all or any part of such Trust Equipment and withdraw the same from said premises, retaining all payments which up to that time may have been made on account of the purchase price of such Trust Equipment and otherwise, and the Trustee shall be entitled to collect, receive and retain all unpaid *per diem*, mileage or other charges of any kind earned by such Trust Equipment or any part thereof, and may lease such Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after declaring due and payable the entire amount payable by the Company with respect to the Trust Certificates of such series, as provided in

Section 6.01) may sell the same or any part thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety or in separate lots, insofar as may be necessary to perform and fulfill the trust hereunder for the benefit of the holders of the Trust Certificates of such series, at public or private sale, for cash or upon credit, in the Trustee's discretion, and may proceed otherwise to enforce its rights and the rights of the holders of such Trust Certificates in the manner herein provided. Upon any such sale, the Trustee may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine so long as the Company shall have a reasonable opportunity to bid at any such sale. Upon such taking possession, withdrawal, lease or sale of any of such Trust Equipment, the Company shall cease to have any rights or remedies in respect of such Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company in respect of such Trust Equipment or any of it shall, in case of the occurrence of any Event of Default with respect to the Trust Certificates of such series and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to such Trust Equipment or any of it or any cause or right of action at law or in equity in respect of such Trust Equipment against the Trustee or the holders of such Trust Certificates. No such taking possession, withdrawal, lease or sale of such Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of amounts then or thereafter due and payable in respect of such Trust Equipment or the Trust Certificates of such series, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of such Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 5.04 with respect to such Trust Certificates (excluding interest not then accrued), whether or not they shall have then matured. The foregoing provisions are subject to all applicable mandatory requirements of law.

6.03, 6.04

SECTION 6.03. *Application of Proceeds.* If, in the case of the occurrence of any Event of Default with respect to the Trust Certificates of any series, the Trustee shall exercise any of the powers conferred upon it by Sections 6.01 and 6.02, all payments made by the Company to the Trustee hereunder with respect to such Trust Certificates after such Event of Default, plus the proceeds of any judgment collected from the Company by the Trustee hereunder with respect thereto, plus the proceeds of every lease or sale by the Trustee hereunder of any of the Trust Equipment held in trust for the benefit of the holders of such Trust Certificates, together with any other sums which may then be held by the Trustee under any of the provisions hereof for the benefit of such holders (other than sums held in trust for the payment of specific Trust Certificates), shall be applied by the Trustee to the payment, in the following order of priority, of (i) all proper charges, expenses or advances applicable to such Trust Certificates made or incurred by the Trustee in accordance with the provisions of this Agreement and (ii) the interest and principal (and premium, if any) then due with respect to such Trust Certificates, with interest on overdue interest and principal, to the extent legally enforceable, at the Overdue Interest Rate for such Trust Certificates, whether such Trust Certificates shall have matured by their terms or not, all such payments to be in full if such payments, proceeds and other sums shall be sufficient or, if not sufficient, then *pro rata* without preference between principal, premium, if any, and interest. After all such payments shall have been made in full, the title to any of such Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If, after applying all such sums of money realized by the Trustee as aforesaid, there shall remain any amount due to the Trustee under the provisions hereof in respect of such Trust Equipment and such Trust Certificates, the Company agrees to pay the amount of such deficit to the Trustee. If, after applying all such sums of money realized by the Trustee as aforesaid there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

SECTION 6.04. *Waivers of Default.* Prior to the declaration of the acceleration of the maturity of the amounts payable hereunder with

respect to the Trust Certificates of any series and of the maturity of all such Trust Certificates, as provided in Section 6.01, the holders of a majority in aggregate principal amount of such Trust Certificates at the time outstanding may on behalf of the holders of all such Trust Certificates waive any past Event of Default in respect thereof and its consequences, except an Event of Default in the payment of any amount payable pursuant to subparagraphs (2)(C), (2)(D) or (2)(E) of the first paragraph of Section 5.04, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

If at any time after the principal of all the Trust Certificates of any series shall have been declared and become due and payable or if at any time after the entire amount payable hereunder with respect thereto shall have been declared and become due and payable, all as in Section 6.01 provided, but before the maturity of the Trust Certificates of such series, all arrears of amounts payable hereunder with respect thereto (with interest at the Overdue Interest Rate for such series upon any overdue instalments, to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust for the benefit of the holders of such Trust Certificates, occasioned by the Company's default and all other sums which shall have become due and payable by the Company hereunder with respect to such Trust Certificates (other than the principal of such Trust Certificates, and any amounts payable hereunder with respect thereto, which shall not at the time have matured according to their terms) shall be paid by the Company before any lease or sale by the Trustee of any of the Trust Equipment held for the benefit of the holders of such Trust Certificates, and every other default in the observance or performance of any covenant or condition hereof for the benefit of the holders of such Trust Certificates shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of a majority in principal amount of such Trust Certificates then outstanding which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company waive the default by reason of which there shall have been such

6.04, 6.05, 6.06, 6.07

declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 6.05. *Obligations of Company Not Affected by Remedies.* No retaking of possession of Trust Equipment by the Trustee, no withdrawal, lease or sale thereof, no action or failure or omission to act against the Company or in respect of the Trust Equipment on the part of the Trustee or on the part of the holder of any Trust Certificate and no delay or indulgence granted to the Company by the Trustee or by any such holder shall affect the obligations of the Company hereunder or the obligations of the Company under the guaranty endorsed on the Trust Certificates. The Company hereby waives presentation and demand in respect of any of the Trust Certificates and waives notice of presentation, of demand and of any default in the payment of the principal (and premium, if any) of and interest on the Trust Certificates.

SECTION 6.06. *Company to Deliver Trust Equipment to Trustee.* In case the Trustee shall rightfully demand possession of any of the Trust Equipment pursuant to this Agreement, the Company will, at its own expense, forthwith and in the usual manner and at the usual speed, cause such Trust Equipment to be drawn to such point or points as shall reasonably be designated by the Trustee and will there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee may keep such Trust Equipment, at the expense of the Company, on any lines of railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. The performance of the foregoing covenant is of the essence of this Agreement and, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 6.07. *Trustee to Give Notice of Default, but May Withhold Under Certain Circumstances.* The Trustee shall give to the holders of the Trust Certificates of any series, in the manner and to the extent provided in Section 8.04(c) with respect to reports pursuant to Section 8.04(a), notice of each default hereunder with respect to the Trust Certificates of such series known to the Trustee within 90 days

after the occurrence thereof, unless such default shall have been remedied or cured before the giving of such notice; *provided, however*, that, except in the case of default in the payment of any part of the amounts payable hereunder pursuant to subparagraphs (2)(C), (2)(D) or (2)(E) of the first paragraph of Section 5.04, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interests of the holders of such Trust Certificates. The term "default," as used in this Section 6.07, shall mean the occurrence of any event defined as an "Event of Default" with respect to the Trust Certificates of a particular series, except that, for the purposes of this Section 6.07 only, there shall be eliminated from the definition of any such Event of Default any reference to the continuance, or the continuance in force, for any period of days of any default or failure on the part of the Company referred to in such definition.

SECTION 6.08. *Limitations on Suits by Holders of Trust Certificates.* No holder of any Trust Certificate of any series shall have any right by virtue or by availing of any provision of this Agreement to institute any action or proceedings at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Agreement, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of default and of the continuance thereof, as hereinbefore provided, and unless also the holders of a majority in aggregate principal amount of the Trust Certificates of such series then outstanding shall have made written request to the Trustee to institute such action or proceedings in its own name as trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceedings and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 6.10, it being understood and intended, and being expressly covenanted by the holder of every Trust Certificate of such

6.08, 6.09, 6.10

series with every other holder of a Trust Certificate of such series and the Trustee, that no one or more holders of the Trust Certificates of such series shall have any right in any manner whatever, by virtue or by availing of any provision of this Agreement, to affect, disturb or prejudice the rights of any other holder of the Trust Certificates of such series, or to obtain or seek to obtain priority over or preference to any other such holder, or to enforce any right under this Agreement, except in the manner herein provided and for the equal, ratable and common benefit of all holders of the Trust Certificates of such series. For the protection and enforcement of the provisions of this Section 6.08, each and every holder of a Trust Certificate of such series and the Trustee shall be entitled to such relief as can be given either at law or in equity.

SECTION 6.09. *Unconditional Right of Holders of Trust Certificates to Sue for Principal and Interest.* Notwithstanding any other provision in this Agreement, the right of any holder of any Trust Certificate of any series to receive payment of the principal (and premium, if any) of and interest on such Trust Certificate, on or after the respective due dates expressed in such Trust Certificate, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder, except no such suit shall be instituted if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the title or security interest reserved under this Agreement upon any property subject hereto.

SECTION 6.10. *Control by Holders of Trust Certificates.* The holders of a majority in aggregate principal amount of the Trust Certificates of any series at the time outstanding shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the Trust Certificates of such series; *provided, however,* that, subject to the provisions of Section 9.02, the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, determines that the action so directed may not lawfully be taken.

SECTION 6.11. *Right of Court to Require Filing of Undertaking to Pay Costs.* The Trustee and the Company agree, and each holder of any Trust Certificate by accepting the same shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Agreement, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 6.11 shall not apply to any suit instituted by the Trustee or the Company, to any suit instituted by any holder of a Trust Certificate of any series, or group of holders of such Trust Certificates, holding in the aggregate more than 10% in principal amount of such Trust Certificates at the time outstanding, or to any suit instituted by any holder of a Trust Certificate of any series for the enforcement of the payment of the principal (and premium, if any) of or interest on such Trust Certificate on or after the due date expressed in such Trust Certificate.

SECTION 6.12. *Remedies Cumulative.* Except as provided in Section 2.07, the remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in their favor existing at law or in equity.

ARTICLE SEVEN

ADDITIONAL COVENANTS AND AGREEMENTS BY COMPANY

SECTION 7.01. *Guaranty of Company.* The Company covenants, agrees and guarantees that the holder of each of the Trust Certificates of any series shall receive the principal amount thereof and premium, if any, appertaining thereto, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the

7.01, 7.02, 7.03

same shall become due and payable in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon until paid at the applicable Overdue Interest Rate to the extent legally enforceable), and shall receive interest thereon, in like money, at the rate specified therein at the times and place and otherwise as expressed in such Trust Certificates (and, if not so paid, with interest thereon until paid at the applicable Overdue Interest Rate to the extent legally enforceable); and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal (and premium, if any) thereof and of the interest thereon, in substantially the form hereinbefore set forth. Such guaranty so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its President or any Vice-President, including the Vice-President Finance and Accounting. In case any officer of the Company whose signature shall appear on any guaranty shall cease to be such officer before such Trust Certificate shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of such Trust Certificate, such guaranty shall nevertheless be as effective and binding upon the Company as though the person who signed such guaranty had not ceased to be or had then been such officer.

SECTION 7.02. *Discharge of Liens.* The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim which, if unpaid, might become a lien or charge upon or against any of the Trust Equipment; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, provided that such contest will not materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates of any series and the Company shall have furnished the Trustee with an Opinion of Counsel to such effect.

SECTION 7.03. *Payment of Expenses; Recording.* The Company covenants and agrees to pay the expenses incident to the preparation

and execution of the Trust Certificates to be issued hereunder, or connected with the preparation, execution, recording and filing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment or otherwise. The Company will, promptly after the execution and delivery of this Agreement and each supplemental agreement hereto, respectively, cause this Agreement or such supplemental agreement, as the case may be, to be duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303 and, within 21 days from the execution hereof or thereof, as the case may be, deposited with the Registrar General of Canada and notice of such deposit given in the Canada Gazette pursuant to Section 86 of the Railway Act of Canada. In addition, the Company will, within 21 days from the execution of any bill of sale or other instrument of conveyance selling, assigning and transferring to the Trustee any of the Trust Equipment, cause such bill of sale or instrument of conveyance to be duly deposited with the Registrar General of Canada and notice of such deposit given in the Canada Gazette pursuant to Section 86 of the Railway Act of Canada. The Company from time to time will do and perform any other act, will execute, acknowledge, deliver, file, register and record any and all further instruments and will file, register and record this Agreement and each supplemental agreement hereto in all other jurisdictions required by law or reasonably requested by the Trustee for the purposes of proper protection of the title and security interest of the Trustee and the rights of the holders of the Trust Certificates of each series and of fully carrying out and effectuating this Agreement and the intent hereof; *provided, however*, that the Company shall not be required to take any such action if (i) the Company deems such action unduly burdensome and (ii) after giving effect to the failure to take such action, the Company has taken all action required by law so as to protect the title and security interest of the Trustee to units of the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of each series then outstanding having a fair value of not less than 90% of the aggregate fair value of all of the Trust Equipment so to be held in trust (such fair value to be determined in the manner provided in subparagraph (1) of the penultimate paragraph of Section 5.06).

Promptly after the execution and delivery of this Agreement, each supplemental agreement hereto and any bill of sale or instrument of conveyance referred to in the penultimate sentence of the preceding paragraph, the Company will furnish to the Trustee an

7.03, 8.01

Opinion of Counsel stating that, in the opinion of such counsel, this Agreement, such supplemental agreement, such bill of sale or such instrument of conveyance, as the case may be, has been properly recorded and filed so as effectively to protect the Trustee's title to and security interest in the Trust Equipment then held in trust for the benefit of the holders of the Trust Certificates of each series then outstanding and the Trustee's rights and the rights of the holders of such Trust Certificates hereunder and thereunder (subject to any qualification permitted by the proviso in the last sentence of the preceding paragraph) and reciting the details of such action; and the Company shall furnish to the Trustee, not more than three months after the anniversary in each year of the first recording or filing of this Agreement, an Opinion of Counsel stating either that, in the opinion of such counsel (i) such action has been taken with respect to the recording, filing, rerecording and refiling of this Agreement, each supplemental agreement hereto and each bill of sale and instrument of conveyance referred to in the penultimate sentence of the preceding paragraph as is necessary for the proper protection of the Trustee's title to and security interest in all such Trust Equipment and the Trustee's rights and the rights of the holders of the Trust Certificates of each series then outstanding hereunder and thereunder (subject to any qualification permitted by the proviso in the last sentence of the preceding paragraph) and reciting the details of such action or (ii) no such action is necessary for any of such purposes.

ARTICLE EIGHT

LISTS OF HOLDERS OF THE TRUST CERTIFICATES AND REPORTS BY COMPANY AND TRUSTEE

SECTION 8.01. *Company to Furnish Trustee Information as to Names and Addresses of Holders of the Trust Certificates.* The Company covenants and agrees that it will furnish or cause to be furnished to the Trustee not more than 15 days after each Interest Payment Date with respect to the Trust Certificates of each series (but not less often than semi-annually), and at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request, a list in such form as the Trustee may reasonably require containing all the information in the possession or control of the Company as to the names and addresses of the holders of the Trust Certificates of such series; but so long as the Trustee is registrar of the Trust Certificates of such series, no such list need be furnished. Any such list may be dated as of a date not more than 15 days prior to the time such information is furnished or caused to be furnished and need not include information received after such date.

SECTION 8.02. *Preservation of Information; Communications to Holders of the Trust Certificates.* (a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of the Trust Certificates of each series (i) contained in the most recent list furnished to it as provided in Section 8.01, (ii) received by it in the capacity of paying agent (if so acting) hereunder and (iii) filed with it within the two preceding years pursuant to the provisions of Section 8.04(c)(2).

The Trustee may (i) destroy any list furnished to it as provided in Section 8.01 upon receipt of a new list so furnished, (ii) destroy any information received by it as paying agent or as registrar (if so acting with respect to the Trust Certificates of a particular series) hereunder upon delivering to itself as Trustee, not later than 15 days after an Interest Payment Date with respect to the Trust Certificates of such series, a list containing the names and addresses of the holders of such Trust Certificates obtained from such information since the delivery of the next previous list, if any, (iii) destroy any list delivered to itself as Trustee which was compiled from information received by it as paying agent or registrar (if so acting with respect to the Trust Certificates of a particular series) hereunder upon the receipt of a new list so delivered and (iv) destroy any information filed with it pursuant to the provisions of Section 8.04(c)(2), but not until two years after such information has been filed with it.

(b) In case three or more holders of the Trust Certificates of any series (hereinafter referred to as "applicants") apply in writing to the Trustee, and furnish to the Trustee reasonable proof that each such applicant has owned such a Trust Certificate for a period of at least six months preceding the date of such application, and such application states that the applicants desire to communicate with other holders of the Trust Certificates of such series with respect to their rights under this Agreement or under such Trust Certificates and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall, within five Business Days after the receipt of such application, at its election, either

(1) afford such applicants access to the information preserved at the time by the Trustee in accordance with the provisions of Section 8.02(a), or

8.02

(2) inform such applicants as to the approximate number of holders of the Trust Certificates of such series whose names and addresses appear in the information preserved at the time by the Trustee in accordance with the provisions of Section 8.02(a), and as to the approximate cost of mailing to such holders of such Trust Certificates the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each holder of a Trust Certificate of such series whose name and address appears in the information preserved at the time by the Trustee in accordance with the provisions of Section 8.02(a) a copy of the form of proxy or other communication which is specified in such request with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of mailing, unless, within five days after such tender, the Trustee shall mail to such applicants, and file with the Commission together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the holders of the Trust Certificates of such series or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all holders of such Trust Certificates with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(c) Each and every holder of the Trust Certificates, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any paying agent shall be held accountable by reason of the disclosure of any such information

as to the names and addresses of the holders of the Trust Certificates in accordance with the provisions of Section 8.02(b), regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under Section 8.02(b).

SECTION 8.03. *Reports by Company.* The Company covenants:

(1) to file with the Trustee, within 15 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934; or, if the Company is not required to file information, documents or reports pursuant to either of said sections, then to file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(2) to file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Agreement as may be required from time to time by such rules and regulations; and

(3) to transmit to the holders of the Trust Certificates, within 30 days after the filing thereof with the Trustee, in the manner and to the extent provided in Section 8.04(c) with respect to reports pursuant to Section 8.04(a), such summaries of any information, documents and reports required to be filed by the Company pursuant to subparagraphs (1) and (2)

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of this Section 8.03 as may be required by rules and regulations prescribed from time to time by the Commission.

SECTION 8.04. *Reports by Trustee.* (a) On or before July 15, 1983, and on or before July 15 in every year thereafter, so long as any Trust Certificates are outstanding hereunder, the Trustee and every co-trustee or separate trustee appointed pursuant to Section 9.14 shall transmit to the holders of the Trust Certificates of each series, as hereinafter in this Section 8.04 provided, a brief report (which may be made by them jointly or separately) dated as of the preceding May 15 with respect to:

(1) their eligibility under Section 9.08 and their qualifications under Section 9.07 or, in lieu thereof, if to the best of their knowledge they have continued to be eligible and qualified under said Sections, a written statement to such effect;

(2) the character and amount of any advances (and if they elect so to state, the circumstances surrounding the making thereof) made by them (as trustees hereunder) which remain unpaid on the date of such report, and for the reimbursement of which they claim or may claim a lien or charge, prior to that of the Trust Certificates of such series, on the trust estate held for the benefit of the holders of the Trust Certificates of such series or on any property or funds held or collected by them as trustees hereunder, except that they shall not be required (but may elect) to report such advances if such advances so remaining unpaid aggregate not more than $\frac{1}{2}$ of 1% of the principal amount of the Trust Certificates of such series outstanding on the date of such report;

(3) the amount, interest rate and maturity date of all other indebtedness owing by the Company (or by any other obligor on the Trust Certificates of such series) to them in their individual capacities on the date of such report, with a brief description of any property held as collateral security therefor, except an indebtedness based upon a creditor relationship arising in any manner described in subparagraph (2), (3), (4) or (6) of Section 9.12(b);

(4) the property and funds, if any, physically in their possession, as trustees hereunder, on the date of such report;

(5) any release, assignment or transfer, or release, assignment or transfer and substitution, of any Trust Equipment (and the consideration therefor, if any) previously held in trust for the benefit of the holders of the Trust Certificates of such series which they have not previously reported; *provided, however*, that to the extent that the aggregate fair value (as shown by the Engineer's Certificates furnished to the Trustee in respect thereof) of any or all of such released, assigned or transferred Trust Equipment does not exceed an amount equal to 1% of the principal amount of the Trust Certificates of such series then outstanding, the report need only indicate the number of such releases, assignments or transfers, the total fair value of Trust Equipment released, assigned or transferred (as shown by said Engineer's Certificates), the aggregate amount of cash received and the aggregate fair value of Trust Equipment received in substitution therefor (as shown by said Engineer's Certificates);

(6) any additional issue of Trust Certificates which they have not previously reported; and

(7) any action taken by them, or any of them, in the performance of their duties under this Agreement which they have not previously reported and which in their opinion materially affects the Trust Certificates of such series or the trust estate held for the benefit of the holders of the Trust Certificates of such series, except action in respect of a default, notice of which has been or is to be withheld in accordance with the provisions of Section 6.07.

(b) The Trustee and every co-trustee or separate trustee appointed pursuant to Section 9.14 shall transmit to the holders of the Trust Certificates of each series, as provided in Section 8.04(c), a brief report with respect to (i) the release, assignment or transfer, or release, assignment or transfer and substitution, of any Trust Equipment (and the consideration therefor, if any) previously held in trust for the benefit of the holders of the Trust Certificates of such series unless the fair value of such Trust Equipment (as set forth in the Engineer's Certificate furnished to the Trustee in respect thereof) is less than 10% of the principal amount of the Trust Certificates of such

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series outstanding at the time of such release, assignment or transfer, or such release, assignment or transfer and substitution, such report to be so transmitted within 90 days after such time, and (ii) the character and amount of any advances (and if they elect so to state, the circumstances surrounding the making thereof) made by them (as trustees hereunder) since the date of the last report transmitted pursuant to the provisions of Section 8.04(a) (or if no such report has yet been so transmitted, since the date of execution of this Agreement), for the reimbursement of which they claim or may claim a lien or charge, prior to that of the Trust Certificates of such series, on the trust estate held for the benefit of the holders of the Trust Certificates of such series or on any property or funds held or collected by them as trustees hereunder, and which they have not previously reported pursuant to this subsection (b), except that they shall not be required (but may elect) to report such advances if such advances remaining unpaid at any time aggregate 10% or less of the principal amount of the Trust Certificates of such series outstanding at such time, such report to be transmitted within 90 days after such time.

(c) Reports pursuant to this Section 8.04 shall be transmitted by mail:

(1) to all holders of the Trust Certificates of such series, as the names and addresses of such holders appear upon the registry books of the Trustee;

(2) to all holders of the Trust Certificates of such series as have, within the two years preceding such transmission, filed their names and addresses with the Trustee for that purpose; and

(3) except in the case of reports pursuant to Section 8.04(b), to each holder of a Trust Certificate of such series whose name and address is preserved at the time by the Trustee as provided in Section 8.02(a).

(d) A copy of each such report shall, at the time of such transmission to the holders of the Trust Certificates of such series, be filed by the Trustee with each stock exchange, if any, upon which the Trust Certificates of such series are listed and also with the Commission. The Company agrees to notify the Trustee when and as the Trust Certificates of any series become listed on any stock exchange.

ARTICLE NINE

THE TRUSTEE

SECTION 9.01. *Acceptance of Trusts.* The Trustee hereby accepts the trusts imposed upon it by this Agreement and covenants and agrees to perform the same as herein expressed.

SECTION 9.02. *Duties and Responsibilities of Trustee; During Default; Prior to Default.* In case an Event of Default with respect to the Trust Certificates of any series has occurred (which has not been waived or cured), the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provision of this Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own wilful misconduct, except that

(1) prior to the occurrence of an Event of Default with respect to the Trust Certificates of any series and after the curing of all Events of Default which may have occurred:

(A) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(B) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

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(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of a majority in aggregate principal amount of the Trust Certificates of any series at the time outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee with respect to the Trust Certificates of such series, or exercising any trust or power conferred upon the Trustee with respect thereto, under this Agreement; and

(4) no provision of this Agreement shall require the Trustee to expend or risk its own funds or otherwise to incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers hereunder, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

SECTION 9.03. *Certain Rights of Trustee.* Except as otherwise provided in Section 9.02:

(1) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, trust certificate, guaranty or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(2) the Trustee may consult with counsel, and any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with such Opinion of Counsel;

(3) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request,

order or direction of any of the holders of the Trust Certificates of any series, pursuant to the provisions of this Agreement or the supplemental agreement hereto or the resolution creating such series, unless such holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred therein or thereby;

(4) the Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement; and

(5) whenever in the administration of this Agreement the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate.

SECTION 9.04. *Application of Purchase Price; Responsibility of Trustee to Insure or Record.* The Trustee covenants and agrees to apply the amounts received by it under subparagraph (2) of the first paragraph of Section 5.04 when and as the same shall be received and, to the extent that such amounts shall be sufficient therefor, for the purposes specified in such subparagraph (2).

Except as otherwise provided in Section 9.02, the Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of any series or to undertake any other act or duty under this Agreement until fully indemnified by the Company or by one or more holders of the Trust Certificates of such series against all liability and expenses; and, except as aforesaid, the Trustee shall not be responsible for the filing or recording or refiling or rerecording of this Agreement or of any supplemental agreement hereto or statement of new numbers.

SECTION 9.05. *Funds May be Held by Trustee; Investments in Investment Securities.* Any money at any time paid to or held by the Trustee hereunder, until paid out by the Trustee as herein provided,

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may be carried by the Trustee on deposit with itself or (except for money deposited pursuant to subsection (b) of Section 5.05) other banks or trust companies in the United States of America or Canada, including affiliates of the Trustee, and, if and to the extent permitted by applicable law or regulations of governmental authorities having jurisdiction over the Trustee, the Trustee may allow interest upon any such moneys held by it in trust at the rate generally prevailing among New York, New York banks and trust companies or allowed by it upon deposits of a similar character.

At any time and from time to time, if at the time no Event of Default with respect to the Trust Certificates of a particular series shall have occurred and be continuing, the Trustee, upon Request, shall invest and reinvest Deposited Cash or accrued interest held by it pursuant to Section 2.01 or cash deposited with it pursuant to Section 5.06 or Section 5.08 (hereinafter in this Section 9.05 called Replacement Funds) with respect to the Trust Certificates of such series in Investment Securities, at such prices, including any premium and accrued interest, as are set forth in such Request, such Investment Securities to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates of such series.

The Trustee shall, upon Request, or the Trustee may, in the event funds are required for payment against delivery of Trust Equipment to be held in trust for the benefit of the holders of the Trust Certificates of a particular series, sell Investment Securities so held in trust, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, with respect to the Trust Certificates of such series the proceeds of any such sale up to the amount paid for such Investment Securities, including any premium and accrued interest. The Trustee shall also restore to such Deposited Cash or Replacement Funds, as the case may be, amounts received by it pursuant to subparagraph (2)(A)(ii) of the first paragraph of Section 5.04 in respect of such Investment Securities.

The Company, if not to the knowledge of the Trustee in default under the terms hereof with respect to the Trust Certificates of a particular series, shall be entitled to receive any interest allowed as provided in the first paragraph of this Section 9.05 and any interest

(in excess of accrued interest paid from Deposited Cash or Replacement Funds at the time of purchase) or other profit which may be realized from any sale or redemption of Investment Securities held in trust for the benefit of the holders of the Trust Certificates of such series.

SECTION 9.06. *Trustee Not Liable for Delivery Delays or Defects in Equipment or Title; May Perform Duties by Agents; Reimbursement of Expenses; Holding of Trust Certificates; Moneys Held in Trust.* Except as otherwise provided in Section 9.02, the Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturers or owners thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation on the part of the Trustee in respect of the value thereof or the title thereto.

Except as otherwise provided in Section 9.02, the Trustee may perform its powers and duties hereunder by or through such attorneys, agents and servants as it shall appoint, and shall be answerable for only its own acts, negligence and wilful defaults and not for the default or misconduct of any attorney, agent or servant appointed by it with reasonable care. The Trustee shall not be responsible in any way for the recitals herein contained or for the execution or validity of this Agreement or of the Trust Certificates (except for its own execution thereof) or for the guaranty by the Company.

The Trustee shall be entitled to receive payment of all of its expenses and disbursements hereunder, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trusts hereby created, all of which shall be paid by the Company.

The Trustee in its individual capacity may own, hold and dispose of the Trust Certificates of any series with the same rights which it would have if it were not the Trustee.

Any moneys at any time held by the Trustee or any paying agent hereunder with respect to the Trust Certificates of any series shall,

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until paid out or invested by the Trustee or any paying agent as herein provided, be held by it in trust as herein provided for the benefit of the holders of the Trust Certificates of such series.

SECTION 9.07. *Qualification of Trustee; Conflicting Interests.* (a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 9.07, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign with respect to one or more series of the Trust Certificates in the manner and with the effect specified in Section 9.09.

(b) In the event that the Trustee shall fail to comply with the provisions of Section 9.07(a), the Trustee shall, within ten days after the expiration of such 90-day period, transmit notice of such failure to the holders of the Trust Certificates in the manner and to the extent provided in Section 8.04(c) with respect to reports pursuant to Section 8.04(a).

(c) For the purposes of this Section 9.07 the Trustee shall be deemed to have a conflicting interest if:

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Trust Certificates issued under this Agreement, *provided* that there shall be excluded from the operation of this paragraph (1) any indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if the Company shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under this Agreement with respect to one or more series of the Trust Certificates and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures; or if by reason of any supplemental agreement hereto or any resolution creating the Trust Certificates of any series there shall be added to this

Agreement any covenants, restrictions, conditions or additional events of default which are applicable to less than all series of the Trust Certificates then outstanding and the existence of which (i) would give the holders of the Trust Certificates of any series any concurrent or overlapping security interest with respect to any Trust Equipment or other property held by the Trustee for the benefit of the holders of the Trust Certificates of any other series, (ii) would cause the Trust Certificates of one or more series (or the guaranties endorsed thereon) not to rank equally or *pari passu* with the Trust Certificates of any other series (or the guaranties endorsed thereon), *provided* that differing values (or differences in the applicable Depreciated Cost Percentage or the applicable Deposited Cash Percentage) of the Trust Equipment or other property held by the Trustee for the benefit of the holders of the Trust Certificates of different series shall not be considered to cause the Trust Certificates of any series not to rank equally or *pari passu* with the Trust Certificates of any other series or (iii) is sufficiently likely to involve a material conflict of interest as between series of the Trust Certificates that it is advisable in the public interest or for the protection of investors that the Trustee disqualify itself from acting as such with respect to one or more series of the Trust Certificates;

(2) the Trustee or any of its directors or executive officers is an obligor upon the Trust Certificates of any series or an underwriter for the Company;

(3) the Trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with the Company or an underwriter for the Company;

(4) the Trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee or representative of the Company, or of an underwriter (other than the Trustee itself) for the Company who is currently engaged in the business of underwriting, except that (i) one individual may be a director or an executive officer, or both, of the Trustee and a director or an executive officer, or both, of the Company, but may not be at the same time an executive officer of both the Trustee and the

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Company, (ii) if and so long as the number of directors of the Trustee in office is more than nine, one additional individual may be a director or an executive officer, or both, of the Trustee and a director of the Company and (iii) the Trustee may be designated by the Company or by any underwriter for the Company to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent or depositary, or in any other similar capacity, or, subject to the provisions of Section 9.07(c)(1), to act as trustee, whether under an indenture or otherwise;

(5) 10% or more of the voting securities of the Trustee is beneficially owned either by the Company or by any director, partner or executive officer thereof, or 20% or more of such voting securities is beneficially owned, collectively, by any two or more of such persons; or 10% or more of the voting securities of the Trustee is beneficially owned either by an underwriter for the Company or by any director, partner or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

(6) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default (i) 5% or more of the voting securities, or 10% or more of any other class of security, of the Company, not including the Trust Certificates and securities issued under any other indenture under which the Trustee is also trustee, or (ii) 10% or more of any class of security of an underwriter for the Company;

(7) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default, 5% or more of the voting securities of any person who, to the knowledge of the Trustee, owns 10% or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, the Company;

(8) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default, 10% or more of any class of security of any person who, to the knowledge of the Trustee, owns 50% or more of the voting securities of the Company; or

(9) the Trustee owns, on May 15 in any calendar year, in the capacity of executor, administrator, testamentary or *inter vivos* trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25% or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under Section 9.07(c) (6), (7) or (8). As to any such securities of which the Trustee acquired ownership through becoming executor, administrator or testamentary trustee of an estate which included them, the provisions of the preceding sentence shall not apply, for a period of two years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25% of such voting securities or 25% of any such class of security. Promptly after May 15 in each calendar year, the Trustee shall make a check of its holdings of such securities in any of the above-mentioned capacities as of such May 15. If the Company fails to make payment in full of the amounts payable hereunder in respect of the principal (and premium, if any) of, or interest on, any of the Trust Certificates when and as the same become due and payable, and such failure continues for 30 days thereafter, the Trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the Trustee, with sole or joint control over such securities vested in it, shall, but only so long as such failure shall continue, be considered as though beneficially owned by the Trustee for the purposes of Section 9.07(c) (6), (7) and (8).

The specification of percentages in Section 9.07(c)(5) to (9), inclusive, shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of Section 9.07(c)(3) or (7).

For the purposes of Section 9.07(c)(6), (7), (8) and (9) only, (i) the terms "security" and "securities" shall include only such securities

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as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness; (ii) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for 30 days or more and shall not have been cured; and (iii) the Trustee shall not be deemed to be the owner or holder of (A) any security which it holds as collateral security, as trustee or otherwise, for an obligation which is not in default as defined in subdivision (ii) above, (B) any security which it holds as collateral security under this Agreement, irrespective of any default hereunder, or (C) any security which it holds as agent for collection, or as custodian, escrow agent or depository, or in any similar representative capacity.

Except as provided above, the word "security" or "securities," as used in this Agreement, shall mean any equipment trust certificate, note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

(d) For the purposes of this Section 9.07:

(1) The term "underwriter," when used with reference to the Company, shall mean every person who, within three years prior to the time as of which the determination is made, has purchased from the Company with a view to, or has offered or sold for the Company in connection with, the distribution of any security of the Company outstanding at such time, or has participated or has had a direct or indirect participation in any such undertaking, or has participated or has had a participation in the direct or indirect underwriting of any such undertaking, but such term

shall not include a person whose interest was limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission.

(2) The term "director" shall mean any director of a corporation, or any individual performing similar functions with respect to any organization whether incorporated or unincorporated.

(3) The term "person" shall mean an individual, a corporation, a partnership, an association, a joint-stock company, a trust, an unincorporated organization or a government or political subdivision thereof. As used in this subparagraph (3), the term "trust" shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

(4) The term "voting security" shall mean any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a person, or any security issued under or pursuant to any trust, agreement or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a person.

(5) The term "Company" shall mean any obligor upon the Trust Certificates.

(6) The term "executive officer" shall mean the president, every vice-president, every trust officer, the cashier, the secretary and the treasurer of a corporation, and any individual customarily performing similar functions with respect to any organization whether incorporated or unincorporated, but shall not include the chairman of the board of directors.

The percentages of voting securities and other securities specified in this Section 9.07 shall be calculated in accordance with the following provisions:

(1) A specified percentage of the voting securities of the Trustee, the Company or any other person referred to in this Section 9.07 (each of whom is referred to as a "person" in this subparagraph (1)) means such amount of the outstanding voting

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securities of such person as entitles the holder or holders thereof to cast such specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such person are entitled to cast in the direction or management of the affairs of such person.

(2) A specified percentage of a class of securities of a person means such percentage of the aggregate amount of securities of the class outstanding.

(3) The term "amount," when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to capital shares and the number of units if relating to any other kind of security.

(4) The term "outstanding" means issued and not held by or for the account of the issuer. The following securities shall not be deemed outstanding within the meaning of this definition:

(A) securities of an issuer held in a sinking fund relating to securities of the issuer of the same class;

(B) securities of an issuer held in a sinking fund relating to another class of securities of the issuer, if the obligation evidenced by such other class of securities is not in default as to principal or interest or otherwise;

(C) securities pledged by the issuer thereof as security for an obligation of the issuer not in default as to principal or interest or otherwise; and

(D) securities held in escrow if placed in escrow by the issuer thereof;

provided, however, that any voting securities of an issuer shall be deemed outstanding if any person other than the issuer is entitled to exercise the voting rights thereof.

(5) A security shall be deemed to be of the same class as another security if both securities confer upon the holder or holders thereof substantially the same rights and privileges; *provided, however,* that, in the case of secured evidences of indebtedness all of which are issued under a single indenture, differences in the interest rates or maturity dates of various series thereof shall not be deemed sufficient to constitute such

series different classes; and *provided, further*, that, in the case of unsecured evidences of indebtedness, differences in the interest rates or maturity dates thereof shall not be deemed sufficient to constitute them securities of different classes, whether or not they are issued under a single indenture.

SECTION 9.08. *Persons Eligible for Appointment as Trustee.* There shall at all times be a Trustee hereunder for the Trust Certificates of each series which (other than a co-trustee or separate trustee appointed pursuant to Section 9.14) shall be a corporation organized and doing business under the laws of the United States of America, the State of New York or the State of Illinois having its principal office and place of business in the Borough of Manhattan, City and State of New York, or in the City of Chicago, Illinois, and having a combined capital and surplus of at least \$10,000,000 U.S. (\$5,000,000 U.S. in the case of Bank of Montreal Trust Company), which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by federal or state authority and which is not resident in Canada and does not carry on business in Canada. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then, for the purposes of this Section 9.08, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 9.08, the Trustee shall resign immediately in the manner and with the effect specified in Section 9.09.

SECTION 9.09. *Resignation and Removal; Appointment of Successor Trustee.* (a) The Trustee may at any time resign with respect to the Trust Certificates of any or all series by giving written notice of resignation to the Company and by mailing notice of resignation to all holders of the Trust Certificates of the relevant series at their last addresses appearing on the registry books of the Trustee. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee with respect to such Trust Certificates by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the

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Trustee so resigning and one copy to the successor trustee or trustees. If no successor trustee shall have been so appointed with respect to the Trust Certificates of any series and shall have accepted appointment within 30 days after the giving of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any holder of a Trust Certificate of such series who has been a bona fide holder of a Trust Certificate or Trust Certificates of such series for at least six months may, subject to the provisions of Section 6.11, on behalf of such holder and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(1) the Trustee shall fail to comply with the provisions of Section 9.07(a) after written request therefor by the Company or by any holder of a Trust Certificate of a series affected thereby who has been a bona fide holder of a Trust Certificate or Trust Certificates of such series for at least six months,

(2) the Trustee shall cease to be eligible in accordance with the provisions of Section 9.08 and shall fail to resign after written request therefor by the Company or by any holder of a Trust Certificate, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Company may remove the Trustee with respect to the Trust Certificates of any or all series, as appropriate, and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee or trustees, or, subject to the provisions of Section 6.11, any holder of a Trust Certificate of a series affected thereby who has been a bona fide holder of a Trust Certificate or Trust Certificates of such series for at least six months may, on behalf of

such holder and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to the Trust Certificates of the applicable series and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The holders of a majority in aggregate principal amount of the Trust Certificates of any series at the time outstanding may at any time remove the Trustee with respect to such series and appoint a successor trustee therefor by delivering to the Trustee to be removed, to the successor trustee so appointed and to the Company the evidence provided for in Section 10.01 of the action taken by the holders of such Trust Certificates.

(d) Any resignation or removal of the Trustee and any appointment of a successor trustee pursuant to any of the provisions of this Section 9.09 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 9.10.

SECTION 9.10. *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 9.09 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee with respect to all applicable series of the Trust Certificates shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder with respect to all such applicable series; but, nevertheless, on the written request of the Company or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act with respect to all such applicable series. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by

9.10, 9.11

such trustee with respect to any applicable series of the Trust Certificates to secure any amounts then due it pursuant to the provisions of Section 9.06.

If a successor trustee is appointed with respect to the Trust Certificates of one or more, but less than all, series, the Company, the predecessor trustee and each successor trustee so appointed shall execute and deliver such supplemental agreement hereto as shall be necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor trustee with respect to the Trust Certificates of any series as to which the predecessor trustee is not retiring shall continue to be vested in the predecessor trustee, and as shall be necessary or desirable to provide for or facilitate the administration of the trusts hereunder by more than one trustee; but nothing herein or in such supplemental agreement shall constitute such trustees as co-trustees of the same trust, and each such trustee shall be deemed to be the trustee of a separate trust.

No successor trustee shall accept appointment as provided in this Section 9.10 unless at the time of such acceptance such successor trustee shall be qualified under the provisions of Section 9.07 and eligible under the provisions of Section 9.08.

Upon acceptance of appointment by a successor trustee as provided in this Section 9.10, the Company shall mail notice thereof to the holders of the Trust Certificates of the series affected thereby at their last addresses appearing on the registry books of the Trustee. If the Company fails to mail such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be mailed at the expense of the Company.

SECTION 9.11. *Merger or Consolidation of Trustee.* Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger or conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be qualified under the provisions of Section 9.07 and eligible under the provisions of Section 9.08, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

SECTION 9.12. *Preferential Collection of Claims Against Company.*

(a) Subject to the provisions of Section 9.12(b), if the Trustee shall be or shall become a creditor, directly or indirectly, secured or unsecured, of the Company within four months prior to a default, as defined in Section 9.12(c), or subsequent to such a default, then, unless and until such default shall be cured, the Trustee shall set apart and hold in a special account for the benefit of the Trustee individually, the holders of the Trust Certificates and the holders of other indenture securities, as defined in Section 9.12(c):

(1) an amount equal to any and all reductions in the amount due and owing upon any claim as such creditor in respect of principal or interest, effected after the beginning of such four-months' period and valid as against the Company and its other creditors, except any such reduction resulting from the receipt or disposition of any property described in Section 9.12(a)(2), or from the exercise of any right of set-off which the Trustee could have exercised if a petition in bankruptcy had been filed by or against the Company upon the date of such default; and

(2) all property received by the Trustee in respect of any claim as such creditor, either as security therefor, or in satisfaction or composition thereof, or otherwise, after the beginning of such four-months' period, or an amount equal to the proceeds of any such property if disposed of, *subject, however*, to the rights, if any, of the Company and its other creditors in such property or such proceeds.

Nothing herein contained, however, shall affect the right of the Trustee

(1) to retain for its own account (i) payments made on account of any such claim by any person (other than the Company) who is liable thereon, (ii) the proceeds of the *bona fide* sale of any such claim by the Trustee to a third person and (iii) distributions made in cash, securities or other property in respect of claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the Bankruptcy Act or applicable state law;

9.12

(2) to realize, for its own account, upon any property held by it as security for any such claim, if such property was so held prior to the beginning of such four-months' period;

(3) to realize, for its own account, but only to the extent of the claim hereinafter mentioned, upon any property held by it as security for any such claim, if such claim was created after the beginning of such four-months' period and such property was received as security therefor simultaneously with the creation thereof, and if the Trustee shall sustain the burden of proving that at the time such property was so received the Trustee had no reasonable cause to believe that a default, as defined in Section 9.12(c), would occur within four months; or

(4) to receive payment on any claim referred to in subparagraph (2) or (3) against the release of any property held as security for such claim as provided in subparagraph (2) or (3), as the case may be, to the extent of the fair value of such property.

For the purposes of subparagraphs (2), (3) and (4), property substituted after the beginning of such four-months' period for property held as security at the time of such substitution shall, to the extent of the fair value of the property released, have the same status as the property released, and, to the extent that any claim referred to in any of such subparagraphs is created in renewal of or in substitution for or for the purpose of repaying or refunding any pre-existing claim of the Trustee as such creditor, such claim shall have the same status as such pre-existing claim.

If the Trustee shall be required to account, the funds and property held in such special account and the proceeds thereof shall be apportioned among the Trustee, the holders of the Trust Certificates and the holders of other indenture securities in such manner that the Trustee, the holders of the Trust Certificates and the holders of other indenture securities realize, as a result of payments from such special account and payments of dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the Bankruptcy Act or applicable state law, the same percentage of their respective claims, figured before crediting to the claim of the Trustee anything on account of the

receipt by it from the Company of the funds and property in such special account and before crediting to the respective claims of the Trustee, the holders of the Trust Certificates and the holders of other indenture securities dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for reorganization pursuant to the Bankruptcy Act or applicable state law, but after crediting thereon receipts on account of the indebtedness represented by their respective claims from all sources other than from such dividends and from the funds and property so held in such special account. As used in this paragraph with respect to any claim, the term "dividends" shall include any distribution with respect to such claim, in bankruptcy or receivership or in proceedings for reorganization pursuant to the Bankruptcy Act or applicable state law, whether such distribution is made in cash, securities or other property, but shall not include any such distribution with respect to the secured portion, if any, of such claim. The court in which such bankruptcy, receivership or proceedings for reorganization is pending shall have jurisdiction (i) to apportion among the Trustee, the holders of the Trust Certificates and the holders of other indenture securities, in accordance with the provisions of this paragraph, the funds and property held in such special account and the proceeds thereof, or (ii) in lieu of such apportionment, in whole or in part, to give to the provisions of this paragraph due consideration in determining the fairness of the distributions to be made to the Trustee, the holders of the Trust Certificates and the holders of other indenture securities with respect to their respective claims, in which event it shall not be necessary to liquidate or to appraise the value of any securities or other property held in such special account or as security for any such claim, or to make a specific allocation of such distributions as between the secured and unsecured portions of such claims, or otherwise to apply the provisions of this paragraph as a mathematical formula.

Any Trustee who has resigned or been removed after the beginning of such four-months' period shall be subject to the provisions of this subsection (a) as though such resignation or removal had not occurred. If any Trustee has resigned or been removed prior to the beginning of such four-months' period, it shall be subject to the

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provisions of this subsection (a) if and only if the following conditions exist:

(1) the receipt of property or reduction of claim which would have given rise to the obligation to account, if such Trustee had continued as trustee, occurred after the beginning of such four-months' period; and

(2) such receipt of property or reduction of claim occurred within four months after such resignation or removal.

(b) There shall be excluded from the operation of Section 9.12(a) a creditor relationship arising from:

(1) the ownership or acquisition of securities issued under any indenture, or any security or securities having a maturity of one year or more at the time of acquisition by the Trustee;

(2) advances authorized by a receivership or bankruptcy court of competent jurisdiction, or by this Agreement, for the purpose of preserving any property which shall at any time be subject to this Agreement or of discharging tax liens or other prior liens or encumbrances thereon, if notice of such advance and of the circumstances surrounding the making thereof is given to the holders of the Trust Certificates at the time and in the manner provided in this Agreement;

(3) disbursements made in the ordinary course of business in the capacity of trustee under an indenture, transfer agent, conversion agent, registrar, custodian, paying agent, fiscal agent or depository, or other similar capacity;

(4) an indebtedness created as a result of services rendered or premises rented, or an indebtedness created as a result of goods or securities sold in a cash transaction, as defined in Section 9.12(c);

(5) the ownership of stock or of other securities of a corporation organized under the provisions of section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of the Company; or

(6) the acquisition, ownership, acceptance or negotiation of any drafts, bills of exchange, acceptances or obligations which fall within the classification of self-liquidating paper, as defined in Section 9.12(c).

(c) As used in this Section 9.12:

(1) The term "default" shall mean any failure to make payment in full of the principal of or interest on any of the Trust Certificates or upon the other indenture securities when and as such principal or interest becomes due and payable.

(2) The term "other indenture securities" shall mean securities upon which the Company is an obligor (as defined in the Trust Indenture Act of 1939) outstanding under any other indenture (i) under which the Trustee is also trustee, (ii) which contains provisions substantially similar to the provisions of this Section 9.12 and (iii) under which a default exists at the time of the apportionment of the funds and property held in such special account.

(3) The term "cash transaction" shall mean any transaction in which full payment for goods or securities sold is made within seven days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks or bankers and payable upon demand.

(4) The term "self-liquidating paper" shall mean any draft, bill of exchange, acceptance or obligation which is made, drawn, negotiated or incurred by the Company for the purpose of financing the purchase, processing, manufacturing, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of, or a lien upon, the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security, provided the security is received by the Trustee simultaneously with the creation of the creditor relationship with the Company arising from the making, drawing, negotiating or incurring of the draft, bill of exchange, acceptance or obligation.

(5) The term "Company" shall mean any obligor upon the Trust Certificates.

SECTION 9.13. *Paying Agents.* (a) Whenever the Trustee shall appoint a paying agent other than the Company with respect to the Trust Certificates of any series, it will cause such paying agent to

9.13, 9.14

execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 9.13, that:

(1) it will hold all sums held by it as such agent for the payment of the principal (and premium, if any) of, or interest on, the Trust Certificates of such series (whether such sums have been paid to it by the Company or by any other obligor on the Trust Certificates of such series) in trust for the benefit of the holders of the Trust Certificates of such series and will notify the Trustee of the receipt of sums to be so held, and

(2) it will give the Trustee notice of any failure by the Company (or by any other obligor on the Trust Certificates of such series) to make any payment of the principal (and premium, if any) of, or interest on, the Trust Certificates of such series when the same shall be due and payable.

(b) If the Company shall act as paying agent for the Trustee with respect to the Trust Certificates of any series, it will, on or before each due date of the principal (and premium, if any) of, or interest on, the Trust Certificates of such series, set aside, segregate and hold in trust for the benefit of the holders of the Trust Certificates of such series a sum sufficient to pay such principal (and premium, if any) or interest so becoming due. The Company will promptly notify the Trustee of any failure to take such action.

SECTION 9.14. *Appointment of Co-Trustees or Separate Trustees.* If at any time or times it shall be necessary or prudent in order to conform to any law of any jurisdiction in which the Trust Equipment relating to the Trust Certificates of any series or any portion thereof is located, or the Trustee shall be advised by counsel satisfactory to it that it is so necessary or prudent in the interest of the holders of the Trust Certificates of such series, the Trustee and the Company shall execute and deliver all instruments and agreements necessary or proper to constitute another bank or trust company or one or more persons approved by the Trustee and the Company either to act as co-trustee or co-trustees, jointly with the Trustee, or to act as separate trustee or trustees hereunder with respect to such Trust Equipment and the Trust Certificates of such series. In the event the Company

shall have not joined in the execution of such instruments and agreements within ten days after the receipt of a written request from the Trustee so to do, or in case an Event of Default with respect to the Trust Certificate of such series shall have occurred and be continuing, the Trustee may act under the foregoing provisions of this Section 9.14 without the concurrence of the Company; and the Company hereby appoints the Trustee its agent and attorney to act for it under the foregoing provisions of this Section 9.14 in either of such contingencies.

Every additional trustee appointed under this Section 9.14 shall, to the extent permitted by law, be appointed and act, and the Trustee and its successors shall act, subject to the following provisions and conditions, namely:

(1) the Trust Certificates of any applicable series shall be authenticated and delivered, and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody, control and management of moneys, papers or securities shall be exercised, solely by the financial institution named as Trustee in the preamble hereto, or its successor as Trustee with respect to such series;

(2) all other rights, powers, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon and exercised or performed by the financial institution named as Trustee in the preamble hereto, or its successor as Trustee with respect to such series, and such additional trustee or trustees jointly, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such other rights, powers, duties and obligations shall be exercised and performed by such additional trustee or trustees;

(3) no power given to, or which it is provided hereby may be exercised by, any such additional trustee or trustees shall be exercised by such additional trustee or trustees except jointly with, or with the consent in writing of, the financial institution named as Trustee in the preamble hereto, or its successor as

9.14, 9.15

Trustee with respect to such series, anything herein contained to the contrary notwithstanding;

(4) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder;

(5) the Company and the Trustee, at any time, by an instrument in writing executed by them jointly, may remove any such additional trustee; and in the event that the Company shall not have joined in the execution of any such instrument within ten days after the receipt of a written request from the Trustee so to do, the Trustee shall have the power to remove any such additional trustee without the concurrence of the Company, the Company hereby appointing the Trustee its agent and attorney to act for it in such connection in such contingency; and

(6) the provisions of Sections 6.01, 6.07, 9.02, 9.03, 9.04, 9.06, 9.07, 9.09 and 9.12, which have been made specifically applicable to the Trustee, shall apply with equal effect to any co-trustee or separate trustee appointed pursuant to this Section 9.14.

SECTION 9.15. *Return of Certain Moneys to Company.* Notwithstanding any provision of this Agreement, any moneys paid to the Trustee which are applicable to the payment of the principal (and premium, if any) of or interest on any Trust Certificates of any series which remain unclaimed for three years after the date when such moneys were due and payable shall then be repaid to the Company upon Request, and the holders of such Trust Certificates shall thereafter be entitled to look only to the Company for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the Company as aforesaid, the Trustee shall first mail notice to the holders of such Trust Certificates, addressed at the last addresses appearing upon the registry books of the Trustee, informing such holders of the provisions hereof relating to the repayment to the Company of the moneys held for the payment of such Trust Certificates.

ARTICLE TEN

CONCERNING THE HOLDERS OF TRUST CERTIFICATES

SECTION 10.01. *Evidence of Action Taken by Holders of Trust Certificates.* Whenever in this Agreement it is provided that the holders of a specified percentage in aggregate principal amount of the Trust Certificates of any series may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced (i) by any instrument or any number of instruments of similar tenor executed by the holders of the Trust Certificates of such series in person or by agent or proxy appointed in writing, (ii) by the record of the holders of the Trust Certificates of such series voting in favor thereof at any meeting of the holders of such Trust Certificates duly called and held in accordance with the provisions of Article Eleven or (iii) by a combination of such instrument or instruments and any such record of such a meeting.

SECTION 10.02. *Proof of Execution of Instruments and of Holding of Trust Certificates.* Subject to the provisions of Sections 9.02 and 11.05, proof of the execution of any instrument by the holder of a Trust Certificate or such holder's agent or proxy and proof of the holding by any person of any of the Trust Certificates shall be sufficient if made in the following manner:

The fact and date of the execution by any such person of any instrument may be proved by the certificate of any notary public or other officer of any jurisdiction within the United States of America or Canada authorized to take acknowledgments of deeds to be recorded in such jurisdiction that the person executing such instrument acknowledged to him the execution thereof; by an affidavit of a witness to such execution sworn to before any such notary or other such officer; or by having the signature of any person executing such an instrument guaranteed by any bank, banker or trust company or by a member of the New York Stock Exchange.

10.02, 10.03, 10.04

The ownership of Trust Certificates of any series may be proved by the register of the Trust Certificates of such series or by a certificate of the registrar thereof.

The Trustee may require such additional proof of any matter referred to in this Section 10.02 as it shall deem necessary.

The record of any meeting of the holders of the Trust Certificates of any series shall be proved in the manner provided in Section 11.06.

SECTION 10.03. *Trust Certificates Owned by Company Deemed Not Outstanding.* In determining whether the holders of the requisite principal amount of the Trust Certificates of any series have concurred in any direction, request or consent under this Agreement, the Trust Certificates of such series which are owned by the Company or by any other obligor on such Trust Certificates or by any Affiliate of the Company or any such other obligor shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, request or consent, only such Trust Certificates which the Trustee knows are so owned shall be disregarded.

SECTION 10.04. *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 10.01, of the taking of any action by the holders of the requisite percentage in aggregate principal amount of the Trust Certificates of any series specified in this Agreement in connection with such action, any holder of a Trust Certificate of such series, the serial number of which is shown by the evidence to be included in the Trust Certificates of such series the holders of which have consented to such action, may, by filing written notice with the Trustee at the Corporate Trust Office and upon proof of holding as provided in Section 10.02, revoke such action so far as concerns such Trust Certificate. Except as aforesaid, any such action taken by the holder of any Trust Certificate of any series shall be conclusive and binding upon such holder and upon all future holders and owners of such Trust Certificate and of any Trust Certificate of such series issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Trust Certificate. Any

action taken by the holders of the requisite percentage in aggregate principal amount of the Trust Certificates of any series specified in this Agreement in connection with such action shall be conclusive and binding upon the Company, the Trustee and the holders of all the Trust Certificates of such series.

ARTICLE ELEVEN

MEETINGS OF HOLDERS OF TRUST CERTIFICATES

SECTION 11.01. *Purposes for Which Meetings of Holders of Trust Certificates May Be Called.* A meeting of holders of the Trust Certificates of any series may be called at any time and from time to time pursuant to the provisions of this Article Eleven for any of the following purposes:

(1) to give any notice to the Company or to the Trustee, to give any directions to the Trustee, to waive any default hereunder and its consequences or to take any other action authorized to be taken by the holders of the Trust Certificates of such series pursuant to any of the provisions of Article Six;

(2) to remove the Trustee with respect to the Trust Certificates of such series and appoint a successor trustee pursuant to the provisions of Section 9.09; or

(3) to take any other action authorized to be taken by or on behalf of the holders of any specified aggregate principal amount of the Trust Certificates of such series under any other provision of this Agreement or under applicable law.

SECTION 11.02. *Call of Meetings by Trustee.* The Trustee may at any time call a meeting of the holders of the Trust Certificates of any series to take any action specified in Section 11.01, to be held at such time and at such place in the Borough of Manhattan, City and State of New York, or in the City of Chicago, Illinois, as the Trustee shall determine. Notice of every meeting of the holders of the Trust Certificates of such series, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be mailed by the Trustee at least 30 days prior to such meeting to the holders of the Trust Certificates of such series at their last addresses appearing on the registry books of the Trustee.

11.03, 11.04, 11.05

SECTION 11.03. *Company and Holders of Trust Certificates May Call Meeting.* In case at any time the Company, pursuant to resolution of the Board of Directors, shall have requested the Trustee to call a meeting of the holders of the Trust Certificates of any series, or the holders of at least 10% in aggregate principal amount of the Trust Certificates of any series shall have requested the Trustee to call a meeting of the holders of the Trust Certificates of such series, to take any action specified in Section 11.01, by written request setting forth in reasonable detail the action proposed to be taken at such meeting, and the Trustee shall not have mailed notice of such meeting within 20 days after receipt of such request, then the Company or the holders of the Trust Certificates of such series in the amount above specified may determine the time and the place in the Borough of Manhattan, City and State of New York, or in the City of Chicago, Illinois, for such meeting and may call such meeting by mailing notice thereof as provided in Section 11.02.

SECTION 11.04. *Persons Entitled to Vote at Meeting.* To be entitled to vote at any meeting of the holders of the Trust Certificates of any series, a person shall (i) be a holder of one or more Trust Certificates of such series or (ii) be a person appointed by an instrument in writing as proxy by a holder of one or more Trust Certificates of such series. The only persons who shall be entitled to be present or to speak at any meeting of the holders of the Trust Certificates of such series shall be the persons entitled to vote at such meeting and their counsel, any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

SECTION 11.05. *Determination of Voting Rights; Conduct and Adjournment of Meeting.* Notwithstanding any other provisions of this Agreement, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of the holders of the Trust Certificates of any series in regard to proof of the appointment of proxies, the appointment and duties of inspectors of votes, the submission and examination of proxies and other evidence of the right to vote and such other matters concerning the conduct of the meeting as it shall think fit. Except as otherwise permitted or required by any such regulations, the holding of the Trust Certificates of any series shall be proved in the manner specified in Section 10.02

and the appointment of any proxy shall be proved in the manner specified in Section 10.02 or by having the signature of the person executing the proxy witnessed by any bank, banker or trust company satisfactory to the Trustee.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by the holders of the Trust Certificates of any series, as provided in Section 11.03, in which case the Company or the holders of the Trust Certificates calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the holders of a majority in principal amount of the Trust Certificates of such series represented at the meeting and entitled to vote.

Subject to the provisions of Section 10.03, at any such meeting each holder of the Trust Certificates of such series or proxy shall be entitled to one vote for each \$1,000 U.S. principal amount of the Trust Certificates of such series held or represented by such holder or proxy; *provided, however*, that no vote shall be cast or counted at any such meeting in respect of any Trust Certificates of such series challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote except as a holder of the Trust Certificates of such series or proxy. Any meeting of the holders of the Trust Certificates of any series duly called pursuant to the provisions of Section 11.02 or 11.03 may be adjourned from time to time, and the meeting may be held as so adjourned without further notice.

At any meeting of the holders of the Trust Certificates of any series, the presence of persons holding or representing Trust Certificates of such series in an aggregate principal amount sufficient to take action upon the business for the transaction of which such meeting was called shall be necessary to constitute a quorum; but if less than a quorum be present, the persons holding or representing a majority in aggregate principal amount of the Trust Certificates of such series represented at the meeting may adjourn such meeting with the same effect, for all intents and purposes, as though a quorum had been present.

11.06, 11.07

SECTION 11.06. *Counting Vote and Recording Action of Meeting.* The vote upon any resolution submitted to any meeting of the holders of the Trust Certificates of any series shall be by written ballots on which shall be subscribed the signatures of the holders of such Trust Certificates or proxies and the serial number or numbers of the Trust Certificates held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes, who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written report, in duplicate, of all votes cast at the meeting. A record, in duplicate, of the proceedings of each meeting of the holders of the Trust Certificates of any series shall be prepared by the secretary of the meeting, and there shall be attached to such record (i) the original report of the inspectors of votes on any vote by ballot taken thereat and (ii) affidavits by one or more persons, having knowledge of the facts, setting forth a copy of the notice of the meeting and showing that such notice was mailed as provided in Section 11.02. The record shall be signed and verified by the affidavits of the permanent chairman and the permanent secretary of the meeting, and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

SECTION 11.07. *Call of Meeting Not to Affect Rights of Trustee and Holders of Trust Certificates.* Nothing in this Article Eleven contained shall be deemed or construed to authorize or permit, by reason of any call of a meeting of the holders of the Trust Certificates of any series or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the holders of the Trust Certificates of such series under any of the provisions of this Agreement, the resolution creating the Trust Certificates of such series or any of the Trust Certificates of such series.

ARTICLE TWELVE

SUPPLEMENTAL AGREEMENTS

SECTION 12.01. *Supplemental Agreements without Consent of Holders.* The Company, when authorized by resolution of the Board of Directors, and the Trustee, at any time and from time to time, may enter into one or more supplemental agreements hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to evidence the succession of another corporation to the Company and the assumption by any such successor of the covenants of the Company herein and in its guaranties in respect of the Trust Certificates contained, all as permitted by Section 5.09;

(2) to add to the covenants of the Company for the benefit of the holders of the Trust Certificates of all series or to surrender any right or power herein conferred upon the Company;

(3) to cure any ambiguity, to correct or supplement any provision contained in this Agreement which may be defective or inconsistent with any other provision hereof or to make any other provisions with respect to matters or questions arising under this Agreement; *provided* such action shall not adversely affect the interests of the holders of the Trust Certificates of any series in any material respect;

(4) to establish the terms and the form or forms of the Trust Certificates of any series, as provided in Section 2.03(b), and to amend any provision of this Agreement as it will apply to the Trust Certificates of such series prior to the issuance thereof;

(5) to identify the Equipment to be sold, assigned and transferred to the Trustee or the Equipment to be substituted therefor, or the Equipment to be released from this Agreement, as provided in Sections 4.01, 4.03, 5.03, 5.06 or 5.08; or

(6) to evidence and provide for the acceptance of the appointment hereunder of a successor trustee with respect to the Trust Certificates of one or more series and to provide for or facilitate the administration of the trusts hereunder by more than one trustee, all as provided in Section 9.10; *provided* such action shall not adversely affect the interests of the holders of the Trust Certificates of any series in any material respect.

12.01, 12.02

The Trustee is hereby authorized to join with the Company in the execution of any supplemental agreement authorized or permitted by the terms of this Agreement and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be obligated to enter into any such supplemental agreement which affects the Trustee's own rights, duties or immunities under this Agreement or otherwise.

Any supplemental agreement authorized by the provisions of this Section 12.01 may be executed without the consent of the holders of any of the Trust Certificates of any series at the time outstanding.

SECTION 12.02. *Supplemental Agreements with Consent of Holders.* With the consent (evidenced as provided in Section 10.01) of the holders of not less than 66 $\frac{2}{3}$ % in aggregate principal amount of the Trust Certificates of any series at the time outstanding, the Company, when authorized by resolution of the Board of Directors, and the Trustee, at any time and from time to time, may enter into one or more supplemental agreements hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Agreement relating to or affecting the Trust Certificates of such series (including provisions relating to the sinking fund, if any, relating thereto) or modifying in any manner the rights and obligations of the holders of the Trust Certificates of such series and of the Company; *provided, however*, that no such supplemental agreement shall adversely affect the interests of the holders of the Trust Certificates of any other series in any material respect without their consent pursuant to this Section 12.02 or shall, without the consent of the holder of each outstanding Trust Certificate of such series affected thereby:

(1) change the fixed maturity of the principal of, or any instalment of interest on, the Trust Certificates of such series, change the dates upon which payments are to be made by the Company in respect of such principal or any such instalment of interest, reduce the amount of the principal thereof, the interest thereon or the premium, if any, appertaining thereto or any payments to be made by the Company in respect of such principal, interest or premium, change any Sinking Fund Redemption Date

or the amount of the principal of the Trust Certificates of such series to be paid on such Sinking Fund Redemption Date or the related date or amount of any payment to be made by the Company in respect of such Sinking Fund Redemption Date, change the coin or currency in which the Trust Certificates of such series or the interest thereon or any payments to be made by the Company relating thereto is payable or impair the right to institute suit for the enforcement of such payment on or after the fixed maturity or date of payment thereof (or, in the case of redemption, on or after the date fixed for redemption);

(2) modify any of the provisions of the guaranty of the Company in respect of the Trust Certificates of such series;

(3) create any security interest with respect to the Trust Equipment held in trust for the benefit of the holders of the Trust Certificates of such series ranking prior to, or on a parity with, the security interest created by this Agreement or deprive any holder of such Trust Certificates of the benefit of the security interest created by this Agreement in all or any part of such Trust Equipment;

(4) reduce the percentage in principal amount of the outstanding Trust Certificates of such series, the consent of whose holders is required for any such supplemental agreement, or the consent of whose holders is required for any waiver of certain defaults hereunder and their consequences, as provided in this Agreement; or

(5) modify any of the provisions of this Section 12.02 or Section 12.03, except to increase any such percentage or to provide that certain other provisions of this Agreement cannot be modified or waived without the consent of the holder of each Trust Certificate of such series affected thereby.

Upon Request, accompanied by a certified copy of the resolution of the Board of Directors authorizing the execution of any such supplemental agreement, and upon the filing with the Trustee of evidence of the consent of the holders as aforesaid, the Trustee shall join with the Company in the execution of such supplemental agreement unless such supplemental agreement affects the Trustee's own rights, duties or immunities under this Agreement or otherwise, in

12.02, 12.03, 12.04

which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental agreement.

It shall not be necessary for the consent of the holders under this Section 12.02 to approve the particular form of any proposed supplemental agreement, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 12.03. *Effect of Supplemental Agreements.* Upon the execution of any supplemental agreement pursuant to the provisions of this Article Twelve, this Agreement shall be deemed to be modified and amended in accordance therewith; the respective rights, limitations of rights, obligations, duties and immunities under this Agreement of the Trustee, the Company and the holders of the Trust Certificates of each series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments; and all the terms and conditions of any such supplemental agreement shall be and be deemed to be part of the terms and conditions of this Agreement for any and all purposes.

SECTION 12.04. *Reference in Trust Certificates to Supplemental Agreements.* The Trust Certificates of any affected series issued and delivered after the execution of any supplemental agreement pursuant to the provisions of this Article Twelve, or after any action taken at a meeting of the holders of such Trust Certificates pursuant to Article Eleven, may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental agreement or as to any action taken at any such meeting; and, in such case, suitable notation may be made upon the outstanding Trust Certificates of such affected series after proper presentation and demand. If the Trustee shall so determine, new Trust Certificates of such affected series modified to conform, in the opinion of the Trustee and the Board of Directors, to any modification or amendment of this Agreement contained in any such supplemental agreement or any action taken at any such meeting may be prepared and executed by the Trustee; the Company shall then place its guaranty thereon and such new Trust Certificates may be delivered in exchange for the appropriate Trust Certificates then outstanding, without cost to the holders thereof, upon surrender of such outstanding Trust Certificates.

SECTION 12.05. *Opinion of Counsel to Trustee.* The Trustee, subject to the provisions of Section 9.02, may receive an Opinion of Counsel as conclusive evidence that any supplemental agreement executed pursuant to this Article Twelve is authorized or permitted by the terms of this Agreement and that it is not inconsistent herewith.

SECTION 12.06. *Conformity with Trust Indenture Act of 1939.* Each supplemental agreement executed pursuant to this Article Twelve shall conform to the requirements of the Trust Indenture Act of 1939 as then in effect.

ARTICLE THIRTEEN

MISCELLANEOUS

SECTION 13.01. *Rights Confined to Parties and Holders.* Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and assigns and of the holders of the Trust Certificates.

SECTION 13.02. *No Recourse.* No recourse under any obligation, covenant or agreement of this Agreement, or of the guaranty endorsed on any Trust Certificate, shall be had against any stockholder, officer or director of the Company, as such, by the enforcement of any assessment, by any legal or equitable proceeding, by virtue of any statute or otherwise, it being expressly agreed and understood that: (i) this Agreement and such guaranty are solely corporate obligations; (ii) no personal liability whatsoever shall attach to or be incurred by the stockholders, officers or directors of the Company, as such, or any of them, under or by reason of any of the obligations, covenants or agreements contained in this Agreement or in such guaranty, or implied therefrom; and (iii) any and all personal liability, either at common law or in equity, or by statute or constitution, of every such stockholder, officer or director is hereby

13.02, 13.03

expressly waived as a condition of and consideration for the execution of this Agreement and such guaranty.

SECTION 13.03. *Officers' Certificates and Opinions of Counsel; Statements to be Contained Therein.* Upon any application, demand or request by the Company to the Trustee to take any action under any of the provisions of this Agreement (other than the issuance of the Trust Certificates of any series), the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent provided for in this Agreement relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with.

Each certificate or opinion provided for in this Agreement and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Agreement shall include (i) a statement that the person making such certificate or opinion has read such condition or covenant; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (iii) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such condition or covenant has been complied with; and (iv) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

In any case where several matters are required to be certified by, or covered by an opinion of, one or more specified persons, it is not necessary that all such matters be certified by, or covered by the opinion of, the same person or persons, or that such matters be so certified or covered by only one document, but one or more such persons may certify or give an opinion with respect to some matters and one or more such other persons as to other matters, and any such person may certify or give an opinion as to such matters in one or more documents.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon an Opinion of

Counsel, unless such officer knows, or in the exercise of reasonable care should know, that the Opinion of Counsel with respect to the matters upon which his certificate or opinion is based is erroneous. Any such Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate, opinion or representations with respect to such matters are erroneous.

Where any person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Agreement, they may, but need not, be consolidated and form one instrument.

SECTION 13.04. *Conflict of any Provision of Agreement with Trust Indenture Act of 1939.* If and to the extent that any provision of this Agreement limits, qualifies or conflicts with another provision included in this Agreement which is required to be included herein by any of sections 310 to 317, inclusive, of the Trust Indenture Act of 1939, such required provision shall control.

SECTION 13.05. *Binding upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 13.06. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail to (i) in the case of the Company, 910 Peel Street, P.O. Box 6042, Station A, Montreal, Canada H3C 3E4, Attention of Secretary, or such other address as may hereafter be furnished to the Trustee in writing by the Company and (ii) in the case of the Trustee, the Corporate Trust Office, Attention of Corporate Trust Department, or such other address as may hereafter be furnished to the Company in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company or the Trustee as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

13.07, 13.08, 13.09, 13.10, 13.11

SECTION 13.07. *Effect of Headings.* The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 13.08. *Counterparts.* This Agreement has been simultaneously executed in several counterparts, each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

SECTION 13.09. *Date Executed.* This Agreement shall be deemed to have been executed on the date of the acknowledgment hereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 13.10. *Governing Law.* The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

SECTION 13.11. *Agent for Process.* By its execution and delivery of this Agreement, the Company irrevocably designates and appoints R. R. Morin, 529 Fifth Avenue, New York, New York 10017 as the Company's authorized agent upon whom process may be served in any suit or proceeding arising out of or relating to the Trust Certificates, the guaranty of the Company endorsed thereon and/or this Agreement, and agrees that service of process upon said R. R. Morin, and written notice of such service to the Company in the manner provided in Section 13.06, shall be deemed in every respect effective service of process upon the Company in any such suit or proceeding. The Company further agrees to take any and all action, including the execution and filing of any and all such documents and instruments, as may be necessary to continue the designation and appointment of said R. R. Morin, or of any successor authorized agent of the Company in the Borough of Manhattan, City and State of New York, in full force and effect so long as any of the Trust Certificates shall be outstanding.

IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective seals, duly attested, to be hereunto affixed as of the day and year first written.

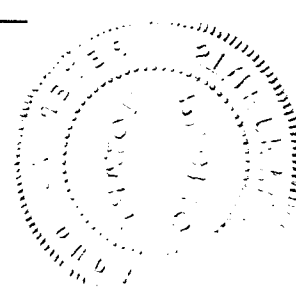
BANK OF MONTREAL TRUST COMPANY,
Trustee

By Z. Guy Macdonald
Vice President

[CORPORATE SEAL]

Attest:

K. O. Heag
Assistant Vice President



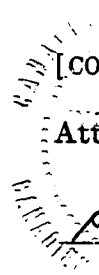
CANADIAN PACIFIC LIMITED

By J. P. Clough
Vice-President Finance and Accounting

[CORPORATE SEAL]

Attest:

A. B. Cluck
Assistant Secretary



STATE OF NEW YORK
COUNTY OF NEW YORK } SS.:

On this 3rd day of March, 1983, before me personally appeared
Z. G. KLODNICKI, to me personally known, who, being by me
duly sworn, says that he is a Vice President of Bank of Montreal Trust
Company, that one of the seals affixed to the foregoing instrument is
the corporate seal of said corporation, that said instrument was
signed and sealed on behalf of said corporation by authority of its
Board of Directors and he acknowledged that the execution of the
foregoing instrument was the free act and deed of said corporation.

My Commission expires MAR 30 1983

[NOTARIAL SEAL]

Peter A. Duda
Notary Public

PETER A. DUDA
Notary Public, State of New York
No. 41-4754949
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 1983

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL } SS.:

On this 4th day of March, 1983, before me personally appeared
J.P.T. CLOUGH, to me personally known, who, being by me
duly sworn, says that he is a Vice-President of Canadian Pacific
Limited, that one of the seals affixed to the foregoing instrument is
the corporate seal of said corporation, that said instrument was
signed and sealed on behalf of said corporation by authority of its
Board of Directors and he acknowledged that the execution of the
foregoing instrument was the free act and deed of said corporation.

~~My Commission is for life.~~

B.R. Levesque
Notary Public

[NOTARIAL SEAL]

Commissioner for Oaths
for the District of Montreal,
Province of Quebec.

My Commission expires

Oct 26, 1986
#72053